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TITLE DIGEST  
LANDS OF  
EASTERN OKLAHOMA

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# TITLE DIGEST

## of the Lands of Eastern Oklahoma

A Chart Showing When and What Lands Can  
Be Alienated, and by Whom, Includ-  
ing the Sections of All the  
Acts Applicable and the  
Courts' Decisions  
Thereon.

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MUSKOGEE, OKLAHOMA

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FEB. 1, 1917  
MODEL PRINTING COMPANY  
MUSKOGEE

## INTRODUCTION.

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Every lawyer who has had occasion to investigate land titles of Eastern Oklahoma has felt very greatly the need of a hand book, from which could be obtained quickly the information as to when an allotment of land becomes subject to alienation.

The purpose of the Title Digest is to furnish this information not only by brief, direct statement of the time when such alienation could be made, but to support such statement with the particular sections of the Acts of Congress giving the authority, and a digest of the decisions of the courts on those sections and the Acts.

In order to simplify and place before the inquirer in an accessible manner this information the lands have been classified in the same terms used by the statutes and the courts, as follows:

HOMESTEADS

INHERITED HOMESTEADS,

SURPLUS,

INHERITED SURPLUS,

Also TOWN LOTS and SEGREGATED LANDS.

The chart sections give the information as to what periods of time the above lands are subject to alienation by the members of each of the Five Civilized Tribes in this arrangement:

ADULTS (who are)

NON-INDIANS

MIXED-BLOOD INDIANS

FULL-BLOOD INDIANS

MINORS (who are)

NON-INDIANS

MIXED-BLOOD INDIANS

FULL-BLOOD INDIANS

With the chart for each nation or tribe is given the law of descent of that tribe.

Each statement of the chart refers by number to the sections of the Acts of Congress and the digests of the decisions of the courts, all of which are reproduced in the following pages, enabling the examiner to investigate for himself the authority for the statements made in the chart.

The digests of decisions include those of the

United States District Courts

United States Circuit Court of Appeals

United States Supreme Court

Supreme Court of the State of Oklahoma

It is hoped that the plan of the Title Digest presents in a convenient form the information which is absolutely necessary to the examination of titles, and which it is so impossible for an attorney to keep in mind, and yet so formidable as an object of search, time after time, in each instance.

R. P. HARRISON.

First Removals of Restrictions by the Secretary of  
the Interior in the various nations:

Cherokee, First Removal.....	December 3, 1904
Choctaw, First Removal.....	December 3, 1904
Seminole, First Removal.....	April 15, 1905
Chickasaw, First Removal.....	April 15, 1905
Creek, First Removal.....	October 23, 1903



# Creek Nation

## CREEK NATION

## DESCENT

Until Oct. 1, 1898, the Creek law. (1) Thereafter until May 25, 1901, the 49th c. of Mansfield's Digest of Arkansas. (2) Thereafter until July 1, 1902, the Creek law. (3) Thereafter until August 8, 1902, 49th c. Mansfield's Digest of Arkansas. Thereafter until Nov. 16, 1907, the 49th c. of Mansfield's Digest of Ark., with the proviso in Sec. 6 of the Supplemental Treaty. (4) Thereafter from Nov. 16, 1907, the Oklahoma law. (5)

## ADULT ALLOTTEE:

## HOMESTEAD

NON-INDIAN—Until April 26, 1906, could alienate by will, providing he had no surviving issue born after May 25, 1901. (6)

From April 26, 1906, to July 26, 1908, could alienate by will. (7)

After July 26, 1908, all restrictions removed. (8)

MIXED-BLOOD—Until April 26, 1906, could alienate by will, providing he had no surviving issue born after May 25, 1901. (6)

From April 26, 1906, to July 26, 1908, could alienate by will. (7)

After July 26, 1908, all restrictions removed on those who were adults by that date. (8)

FULL-BLOOD—Until July 26, 1908, could alienate by will, providing he had no surviving issue born after May 25, 1901. (6) (7) (11)

From July 26, 1908, until April 26, 1931, could alienate by will where he had no surviving issue born after May 25, 1901, or March 4, 1906. (6) (8) (11) And could also alienate after removal of restrictions by the Secretary of the Interior. (8)

## MINOR ALLOTTEE:

NON-INDIAN—Until July 26, 1908, could not alienate. (6)

After July 26, 1908, could sell through probate court. (8)

MIXED-BLOOD—Until July 26, 1908, could not alienate. (6)

After July 26, 1908, if less than half-blood could sell through probate court, if half-blood or more and still a minor by that date, could not alienate until April 26, 1931, excepting on removal of restrictions by the Secretary of the Interior and then through probate court. (8)

FULL-BLOOD—Until July 26, 1908, could not alienate. (6)

After July 26, 1908, could alienate on removal of restrictions by the Secretary of the Interior and then through probate court. (8)

## REFERENCE CHART—CREEK NATION

(For the text of the sections, extracts and chapters and for ruling cases named below, see pages following these Digest pages.)

1. See the Creek Nation Law of Descent; but as allotment of lands was not made until after the repeal of the Creek law, by the Curtis Act of June 28, 1898, effective in the Creek Nation October 1, 1898 (30 Stat. 495), there was no real estate subject to its operation.

2. See Sec. 26, and 28 of the Curtis Act, June 28, 1898 (30 Stat. 495), which by abolishing the Tribal laws and Tribal courts, made effective the 49th chapter of Mansfield's Digest of the Laws of Arkansas, previously adopted by Sec. 30 and 31 of the Act of May 2, 1890 (26 Stat. 81), but restrained its application by the proviso in Sec. 30, thereby continuing the jurisdiction of the Tribal courts over matters between citizens, until the Indian Appropriation Act of June 7, 1897 (30 Stat. 83), partially, and the Curtis Act wholly, made the Arkansas law operative.

See *Washington v. Miller*, 235 U. S. 424 and

*Woodward v. DeGraffenried*, 238 U. S. 284.

3. Sec. 7 and 28 of the Original Creek Agreement, ratified May 25, 1901 (31 Stat. 861).

Indian Appropriation Act approved May 27, 1902 (32 Stat. 245), effective by Resolution of Congress July 1, 1902 (30 Stat. 742).

See *Sizemore v. Brady*, 235 U. S. 448.

4. Sec. 6 of the Supplemental Creek Treaty, effective Aug. 8, 1902 (32 Stat. 500). Indian Appropriation Act of May 27, 1902 (32 Stat. 245), and Resolution of Congress making it effective July 1, 1902 (32 Stat. 742).

5. Art. 4, chap. 82 Revised Laws of Oklahoma, 1910, page 2269, Sec. 8416 to 8435 inclusive, repeating previous statutes excepting the two sections on escheat to the state.

See opinion in *Bartlett v. Okla. Oil Co.*, 218 Fed. 380. *Grant N. Jefferson et al., v. Wm. J. Cook et al.*, Supreme Ct. Okla., 7453, on appeal.

6. Sec. 11 of the Original Curtis Act (30 Stat. 495); Sec. 4, 6, 7, and 28 of the Original Creek Treaty, March 1, 1901 (31 Stat. 861), and Sec. 16 of the Supplemental Creek Treaty, June 30, 1902 (32 Stat. 500), which provided for the allotment of the lands of the Creek Nation among the members thereof and placed restrictions upon its alienation. For the right to will allotment and in the absence of such will where there was no surviving issue born after May 25, 1901, for its descent free from restrictions see *U. S. v. Cook et al.*, 225 Fed. 756; *Reed v. Welty*, 197 Fed. 419; *Skelton v. Dill*, 225 U. S. 206.

**ADULT HEIR:****INHERITED  
HOMESTEAD**

**NON-INDIAN**—Until April 26, 1906, could alienate if deceased allottee left no restricting will, or surviving issue born after May 25, 1901. (6)

After April 26, 1906, where allottee died after that date, all restrictions removed. (7)

**MIXED-BLOOD**—Until April 26, 1906, could alienate providing deceased allottee left no restricting will, or surviving issue born after May 25, 1901. (6)

After April 26, 1906, where allottee died after that date all restrictions removed. (7)

**FULL-BLOOD**—Until April 26, 1906, could alienate providing deceased allottee left no restricting will, or issue surviving born after May 25, 1901. (6)

From April 26, 1906, to July 26, 1908, could alienate on approval of the Secretary of the Interior. (7)

After July 26, 1908, could alienate on approval of the court having jurisdiction of the settlement of the estate of the deceased allottee. Could also alienate by will provided deceased allottee left no surviving issue born after May 25, 1901, or March 4, 1906. (7, 8)

**MINOR HEIR:**

**NON-INDIAN**—Until April 26, 1906, could alienate through probate court, providing deceased allottee left no restricting will or surviving issue born after May 25, 1901. (6)

From April 26, 1906, to July 26, 1908, where allottee died after that date, could join with adult heir in conveying. (7)

After July 26, 1908, could alienate through probate court. (8)

**MIXED-BLOOD**—Until April 26, 1906, could alienate through probate court, providing deceased allottee left no restricting will or surviving issue born after May 25, 1901. (6)

From April 26, 1906, to July 26, 1908, could join with adult heir in conveying. (7)

After July 26, 1908, if less than half-blood, could alienate through probate court, if half-blood or more, could alienate through probate court, providing deceased allottee left no surviving issue born after May 25, 1901, or March 4, 1906. Could also alienate after removal of restrictions by the Secretary of the Interior. (8)

**FULL-BLOOD**—Until April 26, 1906, could alienate through probate court, providing deceased allottee left no surviving issue born after May 25, 1901. (6)

From April 26, 1906, to July 26, 1908, through guardian, with approval of the Secretary of the Interior, could join with adult heir in conveying. (7)

After July 26, 1908, could alienate through probate court, providing deceased allottee left no surviving issue born after May 25, 1901, or March 4, 1906; and could also alienate after removal of restrictions by the Secretary of the Interior. (8)

*Creek Reference Continued.*

For limitations on will of Full-Blood see reference No. 11 below.

For expiration of the 5-year restriction period on Aug. 8, 1907, being a removal of restrictions, see *U. S. v. Bartlett*, 235 U. S. 72.

The first removal of restrictions by the Secretary of the Interior under the above sections was on July 10, 1903. See Dawes Commission Records.

For necessity of expiration of time to elapse before approval by Secretary of Interior, see *Simmons v. Whittington*, 27 Okla. 356.

**ACT OF 1906.**

7. Sec. 2, 5, 19, 22 and 23 of the Act of April 26, 1906, An Act to Provide for the Final Disposition of the Five Civilized Tribes, and Other Purposes. (34 Stat. 137.) **Caution**—The Digest statement as to Non-Indians and Mixed-Bloods of all degrees is based on the assumption that the above section 22 repealed the provision in Sec. 7, of the Original Creek Treaty and Sec. 16 of the Supplemental Creek Treaty that the homestead should remain for the use and support of children born after May 25, 1901. See *Tiger v. Western Invest. Co.*, 221 U. S. 286. If it did repeal that provision the Act of May 25, 1908, did not reimpose it. See *U. S. v. Bartlett*, 235 U. S. 72. If the provision was not repealed then the Digest statement as to Non-Indians and Mixed-Bloods should be:

NON-INDIAN—Until July 26, 1908, could alienate by will providing he had no surviving issue born after May 25, 1901. (6)

After July 26, 1908, all restrictions removed. (8)

MIXED-BLOOD—Until July 26, 1908, could alienate by will providing he had no surviving issue born after May 25, 1901. (6)

After July 26, 1908, if less than half-blood, all restrictions removed, if more than half-blood, could alienate by will, providing he had no surviving issue born after May 25, 1901, or March 4, 1906. And could also alienate after removal of restrictions by the Secretary of the Interior. (6, 8)

**ACT OF 1908.**

8. Sec. 1, 5, 6, 8 and 9 of the Act of May 27, 1908, effective July 27, 1908 (35 Stat. 312). An Act for the Removal of Restrictions from Part of the Lands of the Five Civilized Tribes.

**Caution**—The Digest statement is based on the assumption that if Sec. 22 of the Act of April 26, 1906, removed on all but Full-Bloods the restriction imposed by the Original Creek Treaty and Supplemental Treaty that the Homestead should remain for the use and support of children born after May 25, 1901, the above act did not reimpose it on Mixed-Bloods of more than half blood. See *U. S. v. Bartlett*, 235 U. S. 72 and *U. S. v. Cook et al.*, 225 Fed. 756.

**ADULT ALLOTTEE:****SURPLUS**

NON-INDIAN—Until April 21, 1904, could alienate on approval of the Secretary of the Interior. (6)

After April 21, 1904, all restrictions removed. (9)

MIXED-BLOOD—Until August 8, 1907, could alienate on approval of the Secretary of the Interior. (6)

After August 8, 1907, all restrictions removed. (10)

FULL-BLOOD—Until April 26, 1906, could alienate on approval of the Secretary of the Interior. (6)

From April 26, 1906, to July 26, 1908, could not alienate. (7)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior. (8)

**MINOR ALLOTTEE:**

NON-INDIAN—Until July 26, 1908, could not alienate. (6)

After July 26, 1908, could sell through probate court. (8)

MIXED-BLOOD—Until July 26, 1908, could not alienate. (6)

After July 26, 1908, if less than three-quarter blood, could sell through probate court (8, 10); if three-quarter blood or more, could alienate only after removal of restrictions by the Secretary of the Interior, and then through probate court. (8, 10)

FULL-BLOOD—Until July 26, 1908, could not alienate. (6)

After July 26, 1908, could alienate on removal of restrictions by the Secretary of the Interior and then through probate court. (8)

*Creek Reference Continued.*

Note that if allottee of one-half blood or more was a minor on May 27, 1908, he was still under restriction and the act extended such restriction until April 26, 1931. See *U. S. v. Hopkins*, affirmed by C. C. A., August, 1916.

**ACT OF 1904.**

**9.** Indian Appropriation Act of April 21, 1904 (33 Stat. 189), which removed all restrictions on all allottees not of Indian blood, except as to minors and homesteads.

For inherited surplus see *U. S. v. Jacobs*, 195 Fed. 707, that the above act was not limited to transfers by allottees but extended as well to allottees' heirs.

**10.** The five-year period of restrictions imposed by the 16th Section of the Supplemental Creek Treaty, Aug. 8, 1902, expires Aug. 8, 1907.

See *U. S. v. Bartlett*, 235 U. S. 72; *Choate v. Trapp*, 224 U. S. 665.

A minor who became of age after Aug. 8, 1907, and before July 26, 1908, could alienate free from all restrictions.

**11.** Sec. 23 of the Act of April 26, 1906 (34 Stat. 137), and Sec. 8 and 9 of the Act of May 27, 1908 (35 Stat. 312), are the sections providing for devise by will. Under Sec. 23 of the Act of April 26, 1906, if a full-blood sought by will to disinherit parent, wife, spouse or children it was invalid unless acknowledged before and approved by a Judge of the United States Court for the Indian Territory, or a United States Commissioner. This was amended by Sec. 8 of the Act of May 27, 1908, by adding the words—"or a judge of a county court of the State of Oklahoma."

See *Tiger v. Western Investment Co.*, 221 U. S. 286.

**12.** Sec. 28 of the Original Creek Treaty, May 25, 1901 (31 Stat. 861), and Sec. 7, Supplemental Creek Treaty, Aug. 8, 1902 (32 Stat. 500), are sections providing for allotments to heirs on behalf of dead members.

As to the right to alienate free from all restrictions, see *Skelton v. Dill*, 235 U. S. 206; *Woodward v. DeGraffenried*, 238 U. S. 234; *Mullen v. U. S.*, 224 U. S. 448; *Shulthis v. McDougal*, 225 U. S. 561.

**INHERITED  
SURPLUS****ADULT HEIR:**

NON-INDIAN—Until April 21, 1904, could alienate with the approval of the Secretary of the Interior. (6)

After April 21, 1904, all restrictions removed. (9)

MIXED-BLOOD—Until April 26, 1906, could alienate with the approval of the Secretary of the Interior. (6)

After April 26, 1906, all restrictions removed. (7)

FULL-BLOOD—Until July 26, 1908, could alienate with the approval of the Secretary of the Interior. (6)

After July 26, 1908, could alienate with the approval of the court having jurisdiction of the estate of the deceased allottee. (8)

**LANDS ALLOTTED ON BEHALF OF DEAD MEMBER OF  
THE TRIBE:**

Adult heirs of all kinds could alienate free from all restrictions. (12)

**MINOR HEIR:**

NON-INDIAN—Until April 26, 1906, could alienate on approval of the Secretary of the Interior. (6)

After April 26, 1906, until July 26, 1908, could join with adult heirs in conveying. (7) After July 26, 1908, could sell through probate court. (8)

MIXED-BLOOD—Until April 26, 1906, could alienate with the approval of the Secretary of the Interior. (6)

After April 26, 1906, until July 26, 1908, could join with adult heir in conveying. (7)

After July 26, 1908, could sell through probate court. (8)

FULL-BLOOD—Until July 26, 1908, could alienate with the approval of the Secretary of the Interior. (6)

After July 26, 1908, could alienate with the approval of the court having jurisdiction of the estate of the deceased allottee. (8)

**LANDS ALLOTTED ON BEHALF OF DEAD MEMBER OF  
THE TRIBE:**

Minor heirs of all classes could sell through the probate court. (12)



# Cherokee Nation

## CHEROKEE NATION

**DESCENT**      Until June 28, 1898, tribal law. (1) Thereafter  
until Nov. 16, 1907, 49th c. of Mansfield's Digest of Arkansas.  
      (2) Thereafter, from  
Nov. 16, 1907, the laws of Oklahoma. (3)

**ADULT ALLOTTEE:**

**HOMESTEAD**      **NON-INDIAN**—Prior to April 26, 1906, could not alienate.  
(1)

      From April 26, 1906, to July 26, 1908, could alienate by  
will. (5)

      After July 26, 1908, all restrictions removed. (6)

**MIXED-BLOOD**—Prior to April 26, 1906, could not alienate. (4)

      From April 26, 1906, to July 26, 1908, could alienate  
by will. (5)

      After July 26, 1908, if less than half-blood, all restrictions  
removed; if half-blood or more, could alienate after removal  
of restrictions by the Secretary of the Interior; or could also  
alienate by will if he had no surviving issue born after March 4,  
1906. (6)

**FULL-BLOOD**—Prior to April 26, 1906, could not alienate. (4)

      From April 26, 1906, to July 26, 1908, could alienate by  
will with certain limitations as to disinheriting certain heirs.  
(5) (8)

      After July 26, 1908, could alienate after removal of restrictions  
by the Secretary of the Interior; or by will if allottee had  
no surviving issue born after March 4, 1906. (6) (8)

**MINOR ALLOTTEE:**

**NON-INDIAN**—Prior to July 26, 1908, could not alienate. (4)

      After July 26, 1908, could alienate through probate court.  
(6)

**MIXED-BLOOD**—Prior to July 26, 1908, could not alienate. (4)

      After July 26, 1908, if less than half-blood, could alienate  
through probate court; if half-blood or more, could alienate  
through probate court after removal of restrictions by the Secretary  
of the Interior. (6)

**FULL-BLOOD**—Prior to July 26, 1908, could not alienate. (4)

      After July 26, 1908, could alienate through probate court  
after removal of restriction by the Secretary of the Interior. (6)

## REFERENCE CHART—CHEROKEE NATION

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(For the text of the sections, extracts and chapters and ruling cases named below, see the pages following these

Digest pages.)

1. See Cherokee law of descent, but as the allotment of land was not made until the repeal of that law by the act of June 7, 1897 (30 Stat. L. 83), and the Curtis Act of June 28, 1898 (30 Stat. L. 495), there was no real estate subject to its operation.

2. See Sec. 26 and 28 of the Curtis Act (30 Stat. L. 495), which, by abolishing tribal laws and tribal courts made effective the 49th chapter of Mansfield's Digest of Arkansas, previously adopted by Sec. 30 and 31 of the act of May 2, 1890 (26 Stat. L. 81), but restrained its application by the proviso in Sec. 30 of said act, thereby continuing the jurisdiction of the tribal courts over matters between citizens until the Act of June 7, 1897 (30 Stat. L. 83), partially, and the Curtis act wholly, made the Arkansas law operative.

Washington v. Miller, 235 U. S. 424.

Woodward v. DeGraffenried, 238 U. S. 284.

3. Art. 4, chapter 82 of the Revised Laws of Oklahoma, 1910, page 2269.

Bartlett v. Okla Oil Co., Eq., 218 Fed. 380.

Jefferson et al. v. Cook et al., 7453, Supreme Court of Oklahoma, on appeal.

4. Sec. 11 of the Curtis Act, June 28, 1898 (30 Stat. L. 495).

Sec. 4, 11, 13, 14, 15, of the Cherokee Treaty, Act of July 1, 1902, ratified Aug. 7, 1902 (30 Stat. L. 716), providing for the allotment of the lands of the tribe and placing restrictions on the alienation of such allotments.

Tiger v. Western Investment Co., 221 U. S. 286.

Gritts v. Fisher, 224 U. S. 413.

Truskett v. Closser, 236 U. S. 223.

30,000 Land Suits, 199 Fed. 11.

**ADULT HEIR:****INHERITED  
HOMESTEAD**

**NON-INDIAN**—Prior to April 26, 1906, could not alienate. (4)

After April 26, 1906, could alienate free from restrictions. (5)

**MIXED-BLOOD**—Prior to April 26, 1906, could not alienate. (4)

After April 26, 1906, could alienate free from restrictions. (5)

**FULL-BLOOD**—Prior to April 26, 1906, could not alienate. (4)

From April 26, 1906, to July 26, 1908, could alienate subject to approval of the Secretary of the Interior. (5) (8)

After July 26, 1908, could alienate with the approval of the court having jurisdiction of settlement of the estate of the deceased allottee, providing the deceased allottee left no surviving issue born after March 4, 1906. If such issue survived, could alienate after removal of restrictions by the Secretary of the Interior. (6) (8)

**MINOR HEIR:**

**NON-INDIAN**—Prior to April 26, 1906, could not alienate. (4)

From April 26, 1906, to July 26, 1908, could join with adult heir in conveying. (5)

After July 26, 1908, could alienate through the probate court. (6)

**MIXED-BLOOD**—Prior to April 26, 1906, could not alienate. (4)

From April 26, 1906, until July 26, 1908, could join with adult heirs in conveying. (5)

After July 26, 1908, could alienate through the probate court. (6)

**FULL-BLOOD**—Prior to April 26, 1906, could not alienate. (4)

From April 26, 1906, until July 26, 1908, could join with adult heir in conveying subject to the approval of the Secretary of the Interior. (5)

After July 26, 1908, could alienate through the probate court with the approval of the court having jurisdiction of the settlement of the estate of the deceased allottee, providing such deceased allottee left no surviving issue born after March 4, 1906. If such issue survived, could alienate after removal of restrictions by the Secretary of the Interior. (6)

*Cherokee Reference Continued.***ACT OF 1906.**

5. Sec. 2, 5, 19, 22 and 23 of the Act of April 26, 1906,—An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and other purposes. (34 Stat. L. 137.)

As to the above act superseding previous acts of congress on these lands in which this act sought to remove restrictions, see

Tiger v. Western Investment Co., 221 U. S. 286. (50-70)

**ACT OF 1908.**

6. Sec. 1, 5, 6, 8 and 9 of the Act of May 27, 1908, effective July 26, 1908,—An act for the removal of restrictions from part of the lands of the Five Civilized Tribes. (35 Stat. L. 312.)

Tiger v. Western Investment Co., 221 U. S. 286.

Harris v. Gale, 188 Fed. 712

U. S. v. Shock, 187 Fed. 870.

Truskett v. Closser, 236 U. S. 223.

**ACT OF 1904.**

7. Indian Appropriation Act of April 21, 1904 (33 Stat. L. 189), which removed restrictions on all members not of Indian blood, except as to minors and homesteads, and gave the Secretary of the Interior power to remove restrictions as to other members except as to minors and homesteads.

First deed approved by the Secretary of Interior removing restrictions in accordance with the provisions of the above act, Dec. 3, 1904.

For inherited surplus see U. S. v. Jacobs, 195 Fed. 707.

**WILLS.**

8. Sec. 23 of the Act of April 26, 1906 (34 Stat. L. 137), and

Sec. 8 and 9 of the Act of May 27, 1908 (35 Stat. L. 312), provide for devise by will.

**ADULT ALLOTTEE:****SURPLUS**

NON-INDIAN—Prior to April 21, 1904, could not alienate. (4)

After April 21, 1904, all restrictions removed. (7)

MIXED-BLOOD—Prior to April 21, 1904, could not alienate. (4)

From April 21, 1904, until July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior. (7) Could also alienate free from all restrictions five years from the issuance of patent. (4) And after April 26, 1906, could also alienate by will. (5)

After July 26, 1908, if less than three-quarter blood, all restrictions removed. (6) If three-quarter blood or more and five years from issuance of patent had not expired before July 26, 1908, could only alienate after removal of restrictions by the Secretary of the Interior. (6) If five years from issuance of patent had expired before July 26, 1908, could alienate free from restrictions. (6)

FULL-BLOOD—Prior to April 21, 1904, could not alienate. (4)

From April 21, 1904, to April 26, 1906, could alienate after removal of restrictions by the Secretary of the Interior. (7)

From April 26, 1906, to July 26, 1908, could not alienate excepting by will. (5) (8)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior. (6)

**MINOR ALLOTTEE:**

NON-INDIAN—Five years from issue of patent could alienate through probate court. (4)

After July 26, 1908, could alienate through probate court. (6)

MIXED-BLOOD—Until July 26, 1908, could alienate five years from issuance of patent, through probate court. (4)

After July 26, 1908, if less than three-quarter blood, could alienate through probate court; if three-quarter blood or more, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (6)

FULL-BLOOD—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (6)

*Cherokee Reference Continued.*

NOTE: It is provided in Sec. 23 of the Act of April 26, 1906, that if a full-blood sought to disinherit parent, wife, spouse or children, it was invalid unless the will were acknowledged before and approved by a Judge of the U. S. court for the Indian Territory, or a United States Commissioner. This was amended by Sec. 8, of the Act of May 27, 1908, by adding the words—"or a Judge of a county court of the State of Oklahoma."

Tiger v. Western Investment Co., 221 U. S. 286.

9. Sec. 20 of the Cherokee Treaty, Act of July 1, 1902, ratified August 7, 1902 (30 Stat. L. 716).

**ADULT HEIR:****INHERITED  
SURPLUS**

NON-INDIAN—Until April 21, 1904, could not alienate. (4)

After April 21, 1904, all restrictions removed. (7)

MIXED-BLOOD—Until April 21, 1904, could not alienate. (4)

From April 21, 1904, to April 26, 1906, could alienate after removal of restrictions by the Secretary of the Interior. (7)

After April 26, 1906, all restrictions removed. (5)

FULL-BLOOD—Until April 21, 1904, could not alienate. (4)

From April 21, 1904, to April 21, 1906, could alienate after removal of restrictions by the Secretary of the Interior. (7)

From April 26, 1906, to July 26, 1908, could alienate but conveyance was subject to the approval of the Secretary of the Interior. (5)

After July 26, 1908, could alienate on approval of the court having jurisdiction of the settlement of the estate of the deceased allottee. (6) (8)

**LANDS ALLOTTED ON BEHALF OF DEAD MEMBER—**

All classes could alienate free from all restrictions. (9)

**MINOR HEIR:**

NON-INDIAN—Until April 26, 1906, could not alienate. (4)

From April 26, 1906, until July 26, 1908, could join with adult heir in conveying. (5)

After July, 26, 1908, could alienate through probate court. (6)

MIXED-BLOOD—Until April 26, 1906, could not alienate. (4)

From April 26, 1906, to July 26, 1908, could join with adult heir in conveying. (5)

After July 26, 1908, could alienate through probate court. (6)

FULL-BLOOD—Until April 26, 1906, could not alienate. (4)

From April 26, 1906, to July 26, 1908, could join with adult heir in conveying, the conveyance being subject to approval of the Secretary of the Interior. (5)

After July 26, 1908, could alienate through probate court subject to the approval of the court having jurisdiction of the settlement of the estate of the deceased allottee. (6)

**LANDS ALLOTTED ON BEHALF OF DEAD MEMBER:**

All classes could alienate through probate court. (9)



# **Choctaw and Chickasaw Nations**

## CHOCTAW AND CHICKASAW NATIONS

### DESCENT

Until October 1, 1898, tribal law. (1) Thereafter until Nov. 16, 1907, the 49th c. of Mansfield Digest of Arkansas. (2) Thereafter from Nov. 16, 1907, the Oklahoma law. (3)

### ADULT ALLOTTEE:

#### HOMESTEAD

NON-INDIAN—Until July 26, 1908, could not alienate (4) (5), excepting that after April 26, 1906, could alienate by will. (6) (9)

After July 26, 1908, all restrictions removed.

MIXED-BLOOD—Until July 26, 1908, could not alienate (4), excepting that after April 26, 1906, could alienate by will, providing that after July 26, 1908, he had no surviving issue born after March 4, 1906. (6) (7) (9)

After July 26, 1908, if less than half-blood, all restrictions removed; if half-blood or more could alienate only after removal of restrictions by the Secretary of the Interior (7), and by will providing he had no surviving issue born after March 4, 1906. (7) (9)

FULL-BLOOD—Until July 26, 1908, could not alienate, excepting by will, after April 26, 1906, with certain limitations if he sought to disinherit certain heirs. (6) (9)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior, and could also alienate by will providing he had no surviving issue born after March 4, 1906 (7) (9)

### MINOR ALLOTTEE:

NON-INDIAN—Until July 26, 1908, could not alienate. (4) (5)

After July 26, 1908, could alienate through the probate court. (7)

MIXED-BLOOD—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, if less than half-blood, could alienate through probate court; if half-blood or more, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (7)

FULL-BLOOD—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (7)

## REFERENCE CHART—CHOCTAW AND CHICKASAW NATIONS

(For the text of sections, extracts and chapters and ruling cases named below see the pages following these Digest pages.)

1. See Choctaw and Chickasaw laws of descent, but as allotment of land was not made until the repeal of that law by the Act of June 7, 1897 (30 Stat. L. 83), and the Curtis Act of June 28, 1898 (30 Stat. L. 495), there was no real estate subject to its operation.

2. See Sec. 26 and 28 of the Curtis Act (30 Stat. L. 495), which, by abolishing tribal laws and tribal courts, made operative the 49th chapter of Mansfield's Digest of Arkansas, previously adopted by Sec. 30 and 31 of the Act of May 2, 1890 (26 Stat. L. 81), but restrained its application by the proviso in Sec. 30, thereby continuing the jurisdiction of the tribal courts over matters between citizens until the act of June 7, 1897, partially, and the Curtis Act wholly, made the Arkansas law effective.

See

Washington v. Miller, 235 U. S. 424.

DeGraffenried v. Woodward, 238 U. S. 284.

3. Art. 4, Chapter 82, Revised Laws of Oklahoma—Succession.

See

Bartlett v. Okla Oil Co., 218 Fed. 380.

Jefferson et al. v. Cook et al., 7453, Supreme Court of Oklahoma.

4. Sec. 11 of the Curtis Act, June 28, 1898 (30 Stat. L. 495), and Sec. 12, 13, 15 and 16 of the Choctaw and Chickasaw treaty, July 1, 1902, effective Sept. 25, 1902 (32 Stat. L. 641).

**INHERITED HOMESTEAD**—Note that as the allotment restrictions imposed by the above sections provided that the homestead should be inalienable for the lifetime of the allottee these lands should pass to the heirs unrestricted.

**AS TO SURPLUS**—Note that under Sec. 16, above, such land must not be sold for less than the appraised value during the tribal government.

See

30,000 Land Suits, 199 Fed. 811.

Choate vs. Trapp, 224 U. S. 665.

Mullen v. U. S., 224 U. S. 448.

**ADULT HEIR:****INHERITED  
HOMESTEAD**

**NON-INDIAN**—Could alienate unrestricted. (4)

**MIXED-BLOOD**—Until July 26, 1908, could alienate free from restrictions. (4)

After July 26, 1908, if less than half-blood, could alienate; (4) if half-blood or more, could alienate providing deceased allottee died before July 26, 1908; (4) but if allottee died after that date could alienate only providing deceased allottee left no surviving issue born after March 4, 1906, unless restrictions removed by the Secretary of the Interior. (7)

**FULL-BLOOD**—Until April 26, 1906, could alienate. (4)

From April 26, 1906, until July 26, 1908, where allottee died after April 26, 1906, conveyance was subject to the approval of the Secretary of the Interior; and the right to will was subject to the provisions of Sec. 23 of said Act. (6) (9)

After July 26, 1908, where allottee died after April 26, 1906, could alienate only where deceased allottee left no surviving issue born after March 4, 1906, unless restrictions removed by the Secretary of the Interior. But conveyance after July 26, 1908, was subject to the approval of the court having jurisdiction of the settlement of the estate of the deceased allottee, and the limitations on the right to will if testator sought to disinherit certain heirs. (7) (9)

**MINOR HEIR:**

**NON-INDIAN**—Could alienate through probate court. (4)

**MIXED-BLOOD**—Until July 26, 1908, could alienate through the probate court. (4)

After July 26, 1908, if less than half-blood could alienate through the probate court. (7) If half-blood or more, could alienate if deceased allottee died prior to July 26, 1908, but if allottee died after that date, could alienate through the probate court only providing deceased allottee left no surviving issue born after March 4, 1906, or after removal of restrictions by the Secretary of the Interior. (7)

**FULL-BLOOD**—Until April 26, 1906, could alienate through the probate court. (4)

From April 26, 1906, to July 26, 1908, could alienate through probate court, if deceased allottee died before 4-26-1906. (4) If deceased allottee died after 4-26-1906, could alienate through probate court, subject to approval of the Secretary of the Interior. (6)

After July 26, 1908, could alienate subject to approval of the court having jurisdiction of the settlement of the estate of the deceased allottee, providing such deceased allottee left no surviving issue born after March 4, 1906. If such issue survived, alienation could then be made after removal of restrictions by the Secretary of the Interior. (7)

*Choctaw and Chickasaw Reference Continued.***ACT OF 1901.**

5. Act April 21, 1904, did not remove restrictions on freedmen as their allotments were held to be homesteads.

See

Sec. 3, Act of April 26, 1906 (34 Stat. L. 137).

Homestead Section of the Atoka Agreement, being Sec. 29 of the Curtis Act, June 28, 1898 (30 Stat. L. 495).

Sec. 13, 14, and 16 of the Choctaw and Chickasaw Treaty, effective Sept. 25, 1902.

Lowe v. Fisher, 223 U. S. 95.

**ACT OF 1906.**

6. Sec. 3, 5, 19, 22 and 23 of the Act of April 26, 1906, An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory and for other purposes. (34 Stat. L. 137.)

See Tiger v. Western Investment Co., 221 U. S. 286.

**ADULT ALLOTTEE:****SURPLUS**

NON-INDIAN—Freedman did not have surplus. (4) (6—see Sec. 3.)

Until April 21, 1904, other than Indians could not alienate. (4)

After April 21, 1904, all restrictions removed. (5)

MIXED-BLOOD—Until July 26, 1908, could alienate one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent (4) and after April 21, 1904, could also alienate on approval of the Secretary of the Interior. (5)

After July 26, 1908, if less than three-quarter blood, all restrictions removed (7); if three-quarter blood or more, could alienate surplus on which 1, 3 and 5-year periods had elapsed before July 26, 1908 (4), but could not alienate where time-restrictions had not elapsed before that date, excepting on removal of restrictions by the Secretary of the Interior. (7)

FULL-BLOOD—Until April 26, 1906, could alienate one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent (4); and between April 21, 1904, and April 26, 1906, could alienate on approval of the Secretary of the Interior. (5)

From April 26, 1906, to July 26, 1908, could not alienate. (6)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior. (7)

**MINOR ALLOTTEE:**

NON-INDIAN—Freedman did not have surplus. (4) (6—see Sec. 3.)

Other than freedman until July 26, 1908, could alienate through probate court one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

After July 26, 1908, could alienate through probate court. (7)

MIXED-BLOOD—Until July 26, 1908, could alienate through probate court one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

After July 26, 1908, if less than three-quarter blood, could alienate through probate court; if three-quarter blood or more, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (7)

FULL-BLOOD—Until April 26, 1906, could alienate through probate court one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

From April 26, 1906, to July 26, 1908, could not alienate. (6)

After April 26, 1908, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (7)

*Choctaw and Chickasaw Reference Continued.***ACT OF 1908.**

**7.** Sec. 1, 5, 6, 8 and 9 of the Act of May 27, 1908, effective July 26, 1908 (35 Stat. L. 312), An Act for the removal of restrictions from part of the lands of the Five Civilized Tribes.

See

Tiger v. Western Investment Co., 221 U. S. 286.

Harris v. Gale, 188 Fed. 712.

U. S. v. Shock, 187 Fed. 870.

Truskett v. Closser, 236 U. S. 223.

**8.** Sec. 22 of the Choctaw and Chickasaw Treaty, Act of July 1, 1902 (32 Stat. L. 641).

See

Woodward v. DeGraffenried, 238 U. S. 284.

Ballinger v. Frost, 216 U. S. 240.

**9.** Sec. 23 of the Act of April 26, 1906, and Sec. 8 and 9 of the Act of May 27, 1908, provide for alienation by will.

Note particularly the limitation on full-blood after April 26, 1906, if he sought by will to disinherit parent, wife, spouse or children that the will had to be acknowledged before a Judge of the United States court for the Indian Territory, or a United States Commissioner. By the Act of May 27, 1908, this was amended by adding the words, "A Judge of a county court of the State of Oklahoma."

See Tiger v. Western Investment Co., 221 U. S. 286.

**INHERITED  
SURPLUS****ADULT HEIR:**

**NON-INDIAN**—Freedman did not have surplus. (4) (6 see Sec. 3.)

Other than freedman until April 26, 1906, could alienate one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

After April 26, 1906, all restrictions removed. (6)

**MIXED-BLOOD**—Until April 26, 1906, could alienate one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

After April 26, 1906, all restrictions removed. (6)

**FULL-BLOOD**—Until April 26, 1906, could alienate one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

From April 26, 1906, to July 26, 1908, could alienate but conveyance required approval of the Secretary of the Interior. (6)

After July 26, 1908, could alienate subject to the approval of the court having jurisdiction of the settlement of the estate of the deceased allottee. (7)

**LANDS ALLOTTED ON BEHALF OF DEAD MEMBER**—All allottees could alienate free from all restrictions. (8)

**MINOR HEIR:**

**NON-INDIAN**—Freedman did not have surplus. (4) (6—see Sec. 3.)

Other than freedman until April 26, 1906, could alienate through the probate court one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

From April 26, 1906, to July 26, 1908, could join with adult heir in conveying. (6)

After July 26, 1908, could alienate through probate court. (7)

**MIXED-BLOOD**—Until April 26, 1906, could alienate through probate court one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

From April 26, 1906, until July 26, 1908, could join with adult heir in conveying. (6)

After July 26, 1908, could alienate through probate court. (7)

**FULL-BLOOD**—Until April 26, 1906, could alienate one-fourth in 1, one-fourth in 3 and balance in 5 years from date of patent. (4)

From April 26, 1906, to July 26, 1908, on approval of the Secretary of the Interior, could join with adult heir in conveying. (6)

After July 26, 1908, could alienate through probate court subject to the approval of the court having jurisdiction of the estate of the deceased allottee. (7)

**LANDS ALLOTTED ON BEHALF OF DEAD MEMBER**—All allottees, through the probate court, could alienate. (8)



# **Seminole Nation**

## SEMINOLE NATION

**DESCENT** Until July 28, 1898, tribal law. (1) Thereafter until Nov. 16, 1907, the 49th chapter of Mansfield's Digest of Arkansas, with proviso. (2) Thereafter from Nov. 16, 1907, the Oklahoma law. (3)

**ADULT ALLOTTEE:**

**HOMESTEAD** **NON-INDIAN**—Until April 26, 1906, could not alienate. (4)  
From April 26, 1906, to July 26, 1908, could alienate by will. (7)

After July 26, 1908, all restrictions removed. (8)

**MIXED-BLOOD**—Until April 26, 1906, could not alienate. (4)

From April 26, 1906, to July 26, 1908, could alienate by will. (7)

After July 26, 1908, if less than half-blood, all restrictions removed; if half-blood or more, could alienate after removal of restrictions by the Secretary of the Interior—and could alienate by will providing he had no surviving issue born after March 4, 1906. If such issue survived, could alienate after removal of restrictions by the Secretary of the Interior. (8)

**FULL-BLOOD**—Until April 26, 1906, could not alienate. (4)

From April 26, 1906, to July 26, 1908, could alienate by will, with certain limitations. (7) (9)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior; and could also alienate by will, providing he had no surviving issue born after March 4, 1906, with certain limitations on dis inheriting certain heirs. (7) (9) If such issue survived could alienate on removal of restrictions by the Secretary of the Interior. (8)

**MINOR ALLOTTEE:**

**NON-INDIAN**—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, could alienate through the probate court. (8)

**MIXED-BLOOD**—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, if less than half-blood, could alienate through the probate court; if half-blood or more could alienate through the probate court, after removal of restrictions by the Secretary of the Interior. (8)

**FULL-BLOOD**—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, could alienate through the probate court after removal of restrictions by the Secretary of the Interior. (8)

## REFERENCE CHART—SEMINOLE NATION

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(For the text of the sections, extracts and chapters and ruling cases named below see pages following these Digest pages.)

1. See the Seminole Law of Descent, but as allotment of land was not made until after the repeal of the Seminole law by the Curtis Act of June 28, 1898 (30 Stat. L. 495), there was no real estate subject to its operation. Sec. 26 and 28 of the Curtis Act made effective the 49th chapter of Mansfield's Digest of Arkansas, which had been adopted by the Act of May 2, 1890, Sec. 30 and 31, but held in abeyance by the proviso in Sec. 31 until the Indian Appropriation Act of June 7, 1897 (30 Stat. L. 83), partially, and the Curtis Act, wholly, made the Arkansas law operative.

See

Washington v. Miller, 235 U. S. 424.

Woodward v. De Graffenried, 238 U. S. 284.

2. See paragraph Second of Seminole Agreement approved June 2, 1900 (31 Stat. L. 250), which provided for descent according to the Laws of Descent and Distribution of the State of Arkansas, "Provided, That in all cases where such property would descend to the parents under said laws the same shall first go to the mother instead of the father, and then to the brothers and sisters, and their heirs, instead of the father."

3. Art. 4, Chap. 82, Revised Laws of Oklahoma.

See

Bartlett v. Okla Oil Co., 218 Fed. 380.

### CURTIS ACT AND TREATIES.

4. Sec. 11 of the Curtis Act, June 28, 1898 (30 Stat. L. 495).

Seminole Agreement, approved July 1, 1898 (30 Stat. L. 567).

Supplemental Seminole Agreement, approved July 2, 1900 (31 Stat. L. 250).

Sec. 36 of the Original Creek Agreement, May 25, 1901 (31 Stat. L. 861).

These acts provided for allotment and restriction on alienation of the lands of the Seminole tribe.

See

Tiger v. Western Investment Co., 221 U. S. 471.

30,000 Land Suits, 199 Fed. 811.

Goat v. U. S., 224 U. S. 471.

Woodward v. DeGraffenried, 238 U. S. 284.

**INHERITED  
HOMESTEAD**

**ADULT HEIR:**

NON-INDIAN—Until March 3, 1903, could not alienate. (4)

After March 3, 1903, all restrictions removed. (5)

MIXED-BLOOD—Until March 3, 1903, could not alienate. (4)

After March 3, 1903, if less than half-blood, all restrictions removed. (5)

If half-blood or more, all restrictions removed, excepting on homesteads inherited after July 26, 1908, which could be alienated providing deceased allottee left no surviving issue born after March 4, 1906. If such issue survived could alienate after removal of restrictions by the Secretary of the Interior. (5) (8)

FULL-BLOOD—Until March 3, 1903, could not alienate. (4)

From March 3, 1903, to April 26, 1906, could alienate. (5)

From April 26, 1906, to July 26, 1908, homestead inherited after April 26, 1906, could be alienated subject to approval of the Secretary of the Interior. (7)

After July 26, 1908, could alienate providing deceased allottee left no surviving issue born after March 4, 1906. If such issue survived, could alienate after removal of restrictions by the Secretary of the Interior. (5) (8)

**MINOR HEIR:**

NON-INDIAN—Until March 3, 1903, could not alienate. (4)

After March 3, 1903, could alienate through the probate court. (5)

MIXED-BLOOD—Until March 3, 1903, could not alienate. (4)

From March 3, 1903, until April 26, 1906, could alienate through probate court. (5)

From April 26, 1906, until July 26, 1908, could join adult heir in conveying. (7)

After July 26, 1908, could alienate through the probate court, if less than half-blood; if half-blood or more, could alienate through probate court providing deceased allottee left no surviving issue born after March 4, 1906; if such issue survived, could alienate through probate court after removal of restrictions by the Secretary of the Interior. (8)

FULL-BLOOD—Until March 3, 1903, could not alienate. (4)

From March 3, 1903, to April 26, 1906, could alienate through probate court. (5)

After April 26, 1906, to July 26, 1908, could join adult heir in conveying subject to the approval of the Secretary of the Interior. (7)

After July 26, 1908, could alienate subject to the approval of the court having jurisdiction of the settlement of the estate of the deceased allottee, providing such deceased allottee left no surviving issue born after March 4, 1906. If such issue survived could alienate subject to approval of such court after removal of restrictions by the Secretary of the Interior. (8)

*Seminole Reference Continued.***ACT OF MARCH 3, 1903.**

5. Indian Appropriation Act of March 3, 1903 (32 Stat. L. 982), providing that the homestead shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the deed for the allotment. The provision in the Original Treaty of July 1, 1898, was that the homestead should be inalienable and non-taxable in perpetuity.

For the descent of the homestead to the heirs unrestricted, see *Mullen v. U. S.*, 224 U. S. 448.

See

30,000 Land Suits.

*Ballinger v. Frost*, 216 U. S. 240.

*Goat v. U. S.*, 224 U. S. 458.

*Eastern Cherokees v. U. S.*, 225 U. S. 571.

**ACT OF 1904.**

6. Indian Appropriation Act of April 21, 1904 (33 Stat. L. 189), removing restrictions on surplus lands of those not of Indian blood, except as to minors and homesteads, and empowering the Secretary of the Interior to remove restrictions on those of Indian Blood, except as to minors and homesteads.

See

*Goat v. U. S.*, 224 U. S. 458.

*Deming Investment Co. v. U. S.*, 224 U. S. 471.

30,000 Land Suits, 199 Fed. 811.

*Godfrey v. Iowa Land and Trust Co.*, 21 Okla. 293.

*Skelton v. Dill*, 225 U. S. 206.

**ACT OF 1906.**

7. Sec. 2, 5, 19, 22 and 23 of the Act of April 26, 1906 (34 Stat. L. 137), An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

See

*Tiger v. Western Investment Co.*, 224 U. S. 286.

*Godfrey v. Iowa Land and Trust Co.*, 21 Okla. 293.

**ADULT ALLOTTEE:****SURPLUS**

NON-INDIAN—Until April 21, 1904, could not alienate. (4)

After April 21, 1904, all restrictions removed. (6)

MIXED-BLOOD—Until April 21, 1904, could not alienate. (4)

From April 21, 1904, to July 26, 1908, could alienate on approval of the Secretary of the Interior. (6)

After July 26, 1908, if less than three-quarter blood, all restrictions removed; if three-quarter blood or more, could alienate on removal of restrictions by the Secretary of the Interior. (8)

FULL-BLOOD—Until April 21, 1904, could not alienate. (4)

From April 21, 1904, to April 26, 1906, could alienate on approval of the Secretary of the Interior. (6)

From April 26, 1906, to July 26, 1908, could not alienate. (7)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior. (8)

**MINOR ALLOTTEE:**

NON-INDIAN—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, could alienate through probate court. (8)

MIXED-BLOOD—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, if less than three-quarter blood, could alienate through probate court; if three-quarter blood or more, could alienate after removal of restrictions by the Secretary of the Interior. (8)

FULL-BLOOD—Until July 26, 1908, could not alienate. (4)

After July 26, 1908, could alienate after removal of restrictions by the Secretary of the Interior. (8)

*Seminole Reference Continued.***ACT OF 1908.**

**8.** Sec. 1, 5, 8 and 9 of the Act of May 27, 1908 (35 Stat. L. 312), An Act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes and for other purposes.

See

Tiger v. Western Investment Co., 221 U. S. 286.

Harris v. Gale, 188 Fed. 712.

U. S. v. Shock, 187 Fed. 870.

Truskett v. Closser, 236 U. S. 223.

**WILLS.**

**9.** Sec. 23 of the Act of April 26, 1906 (34 Stat. L. 137), and Sec. 8 and 9 of the Act of May 27, 1908 (35 Stat. L. 312), provide for alienation by will.

NOTE—In Sec. 23 of the Act of April 26, 1906, is a provision that the will of a full-blood, if he sought to disinherit parent, wife, spouse or children, had to be acknowledged before and approved by a Judge of the United States Court for the Indian Territory or a United States Commissioner. This was amended by Sec. 8 of the Act of May 27, 1908, by adding the words: "or a judge of a county court of the State of Oklahoma."

**ADULT HEIR:****INHERITED  
SURPLUS**

- NON-INDIAN—Until April 21, 1904, could not alienate. (4)  
 After April 21, 1904, all restrictions removed. (6)
- MIXED-BLOOD—Until April 26, 1906, could not alienate. (4)  
 After April 26, 1906, all restrictions removed. (6)
- FULL-BLOOD—Until April 26, 1906, could not alienate. (4)  
 From April 26, 1906, to July 26, 1908, could alienate on approval of the Secretary of the Interior. (6)  
 After July 26, 1908, could alienate on approval of the court having jurisdiction of the settlement of the estate of the deceased allottee. (8)

**MINOR HEIR:**

- NON-INDIAN—Until April 26, 1906, could not alienate. (4)  
 From April 26, 1906, to July 26, 1908, could join adult heir in conveying. (6)  
 After July 26, 1908, could alienate through the probate court. (8)
- MIXED-BLOOD—Until April 26, 1906, could not alienate. (4)  
 From April 26, 1906, until July 26, 1908, could join adult heir in conveying. (6)  
 After July 26, 1908, could alienate through probate court. (8)
- FULL-BLOOD—Until April 26, 1906, could not alienate. (4)  
 From April 26, 1906, until July 26, 1908, could join adult heir in conveying, with the approval of the Secretary of the Interior. (6)  
 After July 26, 1908, could alienate through probate court on approval of the court having jurisdiction of the estate of the deceased allottee. (8)



## APPENDIX NO. 1

## TOWN LOTS.

Titles to town lots in the territory of the Five Civilized Tribes are based on the Act of Congress of June 28, 1898, The Original Curtis Act, 30 Stat. L. 495; Thomas 46; Bledsoe 407; which provided for the extinguishment of the government and tribal titles (See *Woodward v. DeGraffenried*, 238 U. S. 284), the Indian Appropriation Act of May 31, 1900, 31 Stat. L. 221; Thomas 294; Bledsoe 535; the Indian Appropriation Act of March 3, 1903, 32 Stat. L. 982; Thomas 304; Bledsoe 98; and the various treaties with the tribes, Creek, Cherokee, Choctaw and Chickasaw and Seminole Indians.

Upon the provisions of these Acts and treaties patents to town lots were executed and delivered by the principal chiefs of the nations, upon the approval of such patent by the Secretary of the Interior.

These patents recite—the appointment of the townsites commission which appraised the lots, the approval of the plat by the Secretary of the Interior, the filing of such plat, the awarding of the lot to the proper person—through preferential claim by virtue of having made improvements thereon or having purchased improvements made thereon—the sale of such lot and the payment by the purchaser of the full purchase price.

In the absence of fraud the patent is conclusive and from the time of its delivery the town lot passes into the realm of general title law the same as the town lot of any other state.

NOTE 1. The Act of 1903 referred to above provided for alienation of allotments and inherited lands, on approval of the Secretary of the Interior on recommendation of the Commission to the Five Civilized Tribes, for townsites purposes.

## SEGREGATED AND RESIDUE LANDS.

In the various nations of the Five Civilized Tribes there were certain lands segregated from allotment, or remaining after the distribution of the lands to the members of the tribes. These have been sold, from time to time by the authority of Congress, under direction of the Secretary of the Interior. Patents or deeds have been delivered to the purchasers of such lands, which, in the absence of fraud, are complete evidence of title.



## REFERENCE SECTIONS

(Following is the text of sections, chapters and extracts from Acts referred to in the Digest.)

## TRIBAL LAWS OF DESCENT AND DISTRIBUTION.

## CREEK NATION.

(Compilation of 1880)

**Sec. 8, Art. 10, Chap. 10.** The lawful or acknowledged wife of a deceased husband shall be entitled to one-half of the estate, if there are no other heirs, in all cases where there is no will. The husband surviving shall inherit of a deceased wife in like manner.

**Sec. 1, Art. 2, Chap. 12.** Should any person or persons appear, claiming to be the child or children of any deceased male citizen of this Nation, should it be proved that any such deceased person did not during life recognize such person or persons as offspring, then such person shall not be entitled to any share in the estate of the deceased.

**Civil Laws Approved Oct. 12, 1867, and Not Repealed—6.** Be it further enacted, that if any person die without a will, having property and children, the property shall be equally divided by disinterested persons; and in all cases where there are no children, the nearest relative shall inherit the property. (Also contained in the "Laws of the Creek Nation," Perryman compilation of 1890.)

**McKellop Compilation of 1893—Chap. 14—Sec. 258.** If any person claim to be the child of a deceased male person, and it should be proven that such person

did not, during life, recognize the claimant as his offspring, then such claimant shall not be entitled to any share in the estate of the deceased.

**Sec. 263.** The lawful or acknowledged wife of a deceased husband shall be entitled to one-half of the estate, if there are no children, and a child's part, if there should be children, in all cases where there is no will. The husband surviving shall inherit of a deceased wife in like manner.

### CHOCTAW NATION.

(A. R. Durant Compilation.)

**Sec. 7, County Courts and Courts of Probate—12.** The property of all persons who die intestate, or without a will, shall descend to his legal wife, or husband, and their children; and in case such deceased person has neither wife, nor husband, nor children, his or her grandchildren (if any) shall inherit the estate; and in case there is no grandchild the father or mother of such deceased person, or either of them shall inherit the estate; and in case such deceased person has neither wife, nor husband, children or grandchildren, father or mother, his or her estate shall go to his or her brothers and sisters, and if none to their lawful children. Should there be none of the above mentioned relatives, to the intestate deceased person, the estate shall descend to the half brothers and sisters of the deceased person and their legal issue.

### CHICKASAW NATION.

(An Act in relation to the descent of property approved 1876.)

1. Be it enacted by the Legislature of the Chickasaw Nation, that from and after the passage of this Act, the property of all persons who die intestate or without a will, shall descend to the legal wife or husband, and their children.

2. Be it further enacted, that in case such deceased person has neither wife, nor husband, nor children his or her grandchildren (if any), shall inherit the estate.

3. Be it further enacted, that in case there be no grandchildren, then the brother or sister shall inherit the estate, and the next of kin shall be the father or mother, or either of them.

4. Be it further enacted, that in case such person has neither wife nor husband, children or grandchildren, brother or sister, father or mother, then the property shall descend to the half brothers and sisters of the deceased and their legal issue.

### CHEROKEE NATION.

(Compilation of 1892, Chap. 9, Art. 4, Descent of Property.)

**Sec. 518.** Whenever any person shall die possessed of property not devised, the same shall descend in the following order, to-wit:

1. In equal parts to the husband and wife, and the children of such intestate, and their descendants; the descendants of a deceased child, or grandchild, to take the share of a deceased parent equally among them.

2. To the father and mother equally, or to the survivor of them.

3. In equal parts to the brothers and sisters of such intestate, and their descendants; the descendants of brothers and sisters, to take the share of the deceased parent equally among them.

4. When there are none of the foregoing persons to inherit, the property of such deceased person shall go to his next of kin by blood. Kindred of the whole and half blood, in the same degree, shall inherit equally.

5. The property of the intestates, who have no sur-

living relative to inherit as above, shall escheat to the treasury of the nation, to be placed to the credit of the orphan fund.

### SEMINOLE NATION.

The Seminole law of descent was that in all cases where property would descend to the parents it should go first to the mother instead of to the father, and then to the brothers and sisters, and their heirs, instead of to the father.

## ACT OF MAY 2, 1890

AN ACT TO PROVIDE A TEMPORARY GOVERNMENT FOR THE TERRITORY OF OKLAHOMA, TO ENLARGE THE JURISDICTION OF THE UNITED STATES COURT IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES. (25 STAT. L. 81.)

**Proviso Which Restricted the Application of Chapter 49 of Mansfield's Digest of Arkansas, Until the Passage of the Curtis Act of June 28, 1898—Sec. 30.** Provided, however, That the judicial tribunals of the Indian Nation shall retain exclusive jurisdiction in all civil and criminal cases arising in the country in which the members of the nation by nativity or adoption shall be the only parties; and as to all such cases the laws of the State of Arkansas extended over and put in force in said Indian Territory by this act shall not apply.

**Extending the Laws of Arkansas, Subject to the Above Provisions, Over the Indian Territory—Sec. 31.** That certain general laws of the State of Arkansas in force at the close of the session of the general assembly of that State of Eighteen Hundred and Eighty-three, as published in Eighteen Hundred and Eighty-four in the volume known as Mansfield's Digest of the Statutes of Arkansas, which are not locally inapplicable or in conflict with this act or with any law of Congress, relating to the subjects specially mentioned in this section, are hereby extended over and put in force in the Indian Territory, until Congress shall otherwise provide, that is to say, the provisions of the said general statutes of Arkansas relating to administration.

Chapter One, and the United States Court in the Indian Territory herein referred to shall have and exercise the powers of courts of probate under said laws; to public administrators.

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## To Descents and Distributions, Chapter Forty-nine.

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**Chaper Forty-Nine of Mansfield's Digest of Arkansas—Descents and Distribution—Section 2522.** When any person shall die, having title to any real estate of inheritance, or personal estate not disposed of, nor otherwise limited by marriage settlement, and shall be intestate as to such estate, it shall descend and be distributed in parcenary to his kindred male and female, subject to the payment of his debts and the widow's dower, in the following manner:

First: To children, or their descendants in equal parts.

Second: If there be no children, then to the father, then to the mother; if no mother, then to the brothers and sisters or their descendants, in equal parts.

Third: If there be no children, nor their descendants, father, mother, brothers or sisters, nor their descendants, then to the grandfather, grandmother, uncles and aunts, and their descendants, in equal parts, and so on in other cases, without end, passing to the nearest lineal ancestor, and their children and their descendants, in equal parts.

**Section 2523.** Posthumous children of the intestate shall inherit in like manner as if born in the life time of the intestate, but no right of inheritance shall accrue to any person other than the children of the intestate, unless they be born at the time of the intestate's death.

**Sec. 2524.** Illegitimate children shall be capable of inheriting and transmitting an inheritance, on the part of their mother, in like manner as if they had been legitimate of their mother.

**Sec. 2525.** If a man have by a woman a child or



children, and afterward shall intermarry with her, and shall recognize such children to be his, they shall be deemed and considered as legitimate.

**Sec. 2526.** The issue of all marriages deemed null in law, or dissolved by divorce, shall be deemed and considered as legitimate.

**Sec. 2527.** In making title by descent it shall be no bar to a demandant that any ancestor through whom he derives his descent from the intestate is, or has been, an alien.

**Sec. 2528.** If there be no children or their descendants, father, mother, nor their descendants, or any paternal or maternal kindred capable of inheriting, the whole shall go to the wife or husband of the intestate. If there be no such wife or husband, then the estate shall go to the state.

**Sec. 2529.** If any children of an intestate be living, and some be dead, the inheritance shall descend to the children who are living, and to the descendants of such children as shall have died, so that each child who shall be living shall inherit such share as would have descended to him if all the children of the intestate who shall have died leaving issue had been living so that the descendants of each child who shall be dead shall inherit the same their parents would have received if living.

**Sec. 2530.** The rule of descent prescribed in the last preceding section shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, shall be in equal degree of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them had all the descendants in the same degree who shall have died leaving issue been living so that the issue of the descendants who shall have died shall respectively take the shares which their parents, if living would have received.

**Sec. 2531.** In cases where the intestate shall die without descendants, if the estate come by the father, then it shall ascend to the father and his heirs; if by the mother, the estate or so much thereof as came by the mother, shall ascend to the mother and her heirs; but if the estate be a new acquisition it shall ascend to the father for his life time and then descend in remainder to the collateral kindred of the intestate in the manner provided in this act; and, in default of a father, then to the mother for her life time; then to descend to the collateral heirs as before provided.

**Sec. 2532.** The estate of an intestate in default of a father and mother, shall go first to the brothers and sisters and their descendants, of the father; next, to the brothers and sisters, and their descendants, of the mother. This provision applies only where there are no kindred, either lineal or collateral, who stand in a nearer relation.

**Sec. 2533.** Relations of the half-blood shall inherit equally with those of the whole blood in the same degree; and the descendants of such relatives shall inherit in the same manner as the descendants of the whole blood, unless the inheritance come to the intestate by descent, devise or gift, of some one of his ancestors, in which case all those who are not of the blood of such ancestors shall be excluded from such inheritance.

**Sec. 2534.** In all cases not provided for by this Act, the inheritance shall descend according to the course of the common law.

**Sec. 2535.** Whenever an inheritance or a share of an inheritance shall descend to several persons, under the provisions of this act, they shall inherit as tenants in common, in proportion to their respective shares or rights.

#### ADVANCEMENT.

**Sec. 2536.** If any child of an intestate shall have

been advanced by him, in his life time, by settlement or portion of real or personal estate, or both of them, the value thereof shall be reckoned for the purpose of this section, only as part of the real and personal estate of such intestate descendible to his heirs, and to be distributed to his next of kin, according to law; and if such advancement be equal to the amount of the share which such child would be entitled to receive of the real and personal estate of the deceased, as herein reckoned, then such child and his descendants shall be excluded from any share of the real and personal estate of the intestate.

**Sec. 2537.** In cases where such advancement is not equal to the share that such child or relative and his descendants shall be entitled to receive, they shall be entitled to receive so much of the real and personal estate as shall be sufficient to make all the shares of the heirs in such real and personal estate and advancement to be as nearly equal as possible.

**Sec. 2538.** The value of any real or personal estate so advanced shall be deemed to be that, if any, which was acknowledged by the person receiving the same by any receipt, in writing, specifying the value; if no such written evidence exists, then such value shall be estimated according to its value at the time of advancing such money or property.

**Sec. 2539.** The maintaining, educating or giving money to a child or heir, without a view to a portion or settlement in life, shall not be an advancement within the meaning of this act.

#### CONSTRUCTION.

**Sec. 2540.** The term "real estate" as used in this act, shall be construed to include every estate, interest and right, legal and equitable, in lands, tenements and

hereditaments, except such as are determined or extinguished by the death of the intestate, seized or possessed thereof in any manner, other than by lease for years and estate for the life of another person.

**Sec. 2541.** The term "inheritance" as used in this act, shall be understood to mean real estate, as herein defined, descended according to the provisions of this act.

**Sec. 2542.** Whenever, in any part of this act, any person is described as living it shall be understood that he was living at the time of the death of the intestate from whom the descent came; and when any person is described as having died, it shall be understood that he died before the intestate.

**Sec. 2543.** The expression used in this act "where the estate shall have come to the intestate on the part of the "father" or "mother" as the case may be, shall be construed to include every case where the inheritance shall have come to the intestate by gift, devise or descent from the parent referred to, or from any relative of the blood of such parent. Rev. Stat. Chap. 49.

Heirs at law may be made by declaration in writing.

**Sec. 2544.** When any person may desire to make a person his heir at law it shall be lawful to do so by a declaration in writing in favor of such person, to be acknowledged before any judge, justice of the peace, clerk of any court or before any court of record in this state.

**Sec. 2545.** Before said declaration shall be of any force or effect it shall be recorded in the county where the said declarant may reside, or in the county where the person in whose favor such declaration is may reside.

## RULING CASES.

For cases on construction of this statute see Kelly's Heirs v. McGuire, 15th Ark. 555; on inheritance, per capita and per stirpes, Garrett v. Bean, 51 Ark. 52; 9 S. W. 435; as to heirs, Johnson v. Knight of Honor, 53 Ark.. 255; 13 S. W. 794; as to Creek Nation, Davidson v. Gibson, 56 Fed. 443; as to ancestral estate, Sec. 2531 above, Galloway v. Robinson, 19 Ark. 396; Magnes v. Arnold, 31 Ark. 103; Shulthis v. McDougal, 170 Fed. 529; McDougal v. McKay, 237 U. S. 372.

## ACT OF JUNE 7, 1897.

AN ACT MAKING APPROPRIATIONS FOR THE CURRENT AND CONTINGENT EXPENSES OF THE INDIAN DEPARTMENT AND FOR FULFILLING TREATY STIPULATIONS WITH VARIOUS INDIAN TRIBES, AND FOR OTHER PURPOSES. (30 STAT. L. 62.)

**Extending Laws of U. S. and State of Arkansas to All Persons**—"and the laws of the United States and the State of Arkansas in force in the Territory shall apply to all persons therein, irrespective of race, said courts exercising jurisdiction thereof as now conferred upon them in the trial of like causes."

## CURTIS ACT.

(June 28, 1898.)

AN ACT FOR THE PROTECTION OF THE PEOPLE OF THE  
INDIAN TERRITORY, AND FOR OTHER PURPOSES.  
(30 STAT. L. 495.)

**Tribal Laws and Tribal Courts Abolished—19th Chapter of Mansfield's Digest of Ark., Effective—Allotment of the Surface of Tribal Lands by the Dawes Commission—Sec. 11.** That when the roll of citizenship of any one of said nations or tribes is fully completed as provided by law, and the survey of the lands of said nation or tribe is also completed, the Commission heretofore appointed under acts of Congress, and known as the "Dawes Commission," shall proceed to allot the exclusive use and occupancy of the surface of all the lands of said nation or tribe susceptible of allotment among the citizens thereof, as shown by said roll, giving to each, so far as possible, his fair and equal share thereof, considering the nature and fertility of the soil, location, and value of same; but all oil, coal, asphalt, and mineral deposits in the lands of any tribe are reserved to such tribe, and no allotment of such lands shall carry the title to such oil, coal, asphalt, or mineral deposits; and all town sites shall also be reserved to the several tribes, and shall be set apart by the Commission heretofore mentioned as incapable of allotment. There shall also be reserved from allotment a sufficient amount of lands now occupied by churches, schools, parsonages, charitable institutions, and other public buildings for their present actual and necessary use, and no more, not to exceed five acres for each school and one acre for each church and each parsonage, and for such new schools as may be needed; also sufficient land for burial grounds

where necessary. When such allotment of the lands of any tribe has been by them completed, said Commission shall make full report thereof to the Secretary of the Interior for his approval: Provided, That nothing herein contained shall in any way affect any vestal legal rights which may have been heretofore granted by act of Congress, nor be so construed as to confer any additional rights upon any parties claiming under any such act of Congress: Provided further, That whenever it shall appear that any member of a tribe is in possession of lands, his allotment may be made out of the lands in his possession, including his home if the holder so desires; Provided further, That if the person to whom an allotment shall have been made shall be declared, upon appeal as herein provided for, by any of the courts of the United States in or for the aforesaid Territory, to have been illegally accorded rights of citizenship, and for that or any other reason declared to be not entitled to any allotment, he shall be ousted and ejected from said lands; that all persons known as intruders who have been paid for their improvements under existing laws and have not surrendered possession thereof who may be found under the provisions of this act to be entitled to citizenship shall, within ninety days thereafter, refund the amount so paid them, with six per centum interest, to the tribe entitled thereto; and upon their failure so to do said amount shall become a lien upon all improvements owned by such person in such Territory, and may be enforced by such tribe: and unless such person makes such restitution no allotments shall be made to him: Provided further, That the lands allotted shall be nontransferable until after full title is acquired and shall be liable for no obligations contracted prior thereto by the allottee, and shall be nontaxable while so held: Provided further, That all towns and cities heretofore incorporated or incorporated under the provisions of this act are hereby authorized to secure, by condemnation or otherwise, all the lands actually necessary for public improvements, regardless of tribal lines; and when the same can not be secured otherwise than by



condemnation, then the same may be acquired as provided in sections nine hundred and seven and nine hundred and twelve, inclusive, of Mansfield's Digest of the Statutes of Arkansas.

**Tribal Laws Abolished—Sec. 26.** That on and after the passage of this act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the courts of the United States in the Indian Territory.

**Tribal Courts Abolished—Sec. 28.** That on the first day of July, eighteen hundred and ninety-eight, all tribal courts in Indian Territory shall be abolished, and no officer of said courts shall thereafter have any authority whatever to do or perform any act theretofore authorized by any law in connection with said courts, or to receive any pay for same; and all civil and criminal causes then pending in any such court shall be transferred to the United States court in said Territory by filing with the clerk of the court the original papers in the suit: Provided, That this section shall not be in force as to the Chickasaw, Choctaw, and Creek tribes or nations until the first day of October, eighteen hundred and ninety-eight.

(See also in this connection, *supra*, the Act of April 28, 1904—An Act to Provide for Additional United States Judges in the Indian Territory, and for other Purposes (Stat. L., 573) and Indian Appropriation Act of May 27, 1902, (32 Stat. L., 245) and the Resolution of May 27, 1902 (32 Stat. L., 742).

**CHOCTAW AND CHICKASAW TREATY.**

(Atoka Agreement—Sec. 29 of the Curtis Act, June 28, 1898.)  
(30 Stat. L. 495.)

**Minors Restricted**—That each member of the Choctaw and Chickasaw tribes, including Choctaw and Chickasaw freedmen, shall, where it is possible, have the right to take his allotment on land the improvements on which belong to him, and such improvements shall not be estimated in the value of his allotment. In the case of minor children allotments shall be selected for them by their father, mother, guardian, or the administrator having charge of their estate, preference being given in the order named, and shall not be sold during his (or her) minority. Allotments shall be selected for prisoners, convicts, and incompetents by some suitable person akin to them, and due care taken that all persons entitled thereto have allotments made to them.

**Homesteads Inalienable and Non-Taxable**—All the lands allotted shall be nontaxable while the title remains in the original allottee, but not to exceed twenty-one years from date of patent, and each allottee shall select from his allotment a homestead of one hundred and sixty acres, for which he shall have a separate patent, and which shall be inalienable for twenty-one years from date of patent. This provision shall also apply to the Choctaw and Chickasaw freedman to the extent of his allotment. Selections for homesteads for minors to be made as provided herein in case of allotment, and the remainder of the lands allotted to said members shall be alienable for a price to be actually paid, and to include no former indebtedness or obligation—one-fourth of said remainder in one year, one-fourth in three years, and the balance of said alienable lands in five years from the date of the patent.

That all contracts looking to the sale or incumbrance in any way of the land of an allottee, except the sale hereinbefore provided, shall be null and void.

**SEMINOLE TREATY.**

(Act of December 16, 1897, Approved by Act of Congress,  
July 1, 1898.)

AN ACT TO RATIFY AN AGREEMENT BETWEEN THE  
DAWES COMMISSION AND THE SEMINOLE NATION OF  
INDIANS, (30 STAT. L. 567.)

**Allotment and Restriction of Lands**—All lands belonging to the Seminole tribe of Indians shall be divided into three classes, designated as first, second, and third class; the first class to be appraised at five dollars, the second class at two dollars and fifty cents, and the third class at one dollar and twenty-five cents per acre, and the same shall be divided among the members of the tribe so that each shall have an equal share thereof in value, so far as may be, the location and fertility of the soil considered; giving to each the right to select his allotment so as to include any improvements thereon owned by him at the time; and each allottee shall have the sole right of occupancy of the land so allotted to him during the existence of the present tribal government, and until the members of said tribe shall have become citizens of the United States. Such allotments shall be made under the direction and supervision of the Commission to the Five Civilized Tribes in connection with a representative appointed by the tribal government, and the chairman of said commission shall execute and deliver to each allottee a certificate describing therein the land allotted to him.

All contracts for sale, disposition, or encumbrance of any part of any allotment made prior to date of patent shall be void.

**Homestead Inalienable and Non-Taxable**—When

the tribal government shall cease to exist the principal chief last elected by said tribe shall execute, under his hand and the seal of the nation, and deliver to each allottee a deed conveying to him all the right, title, and interest of the said nation and the members thereof in and to the lands so allotted to him, and the Secretary of the Interior shall approve such deed, and the same shall thereupon operate as relinquishment of the right, title, and interest of the United States in and to the land embraced in said conveyance, and as a guarantee by the United States of the title of said lands to the allottee; and the acceptance of such deed by the allottee shall be a relinquishment of his title to and interest in all other lands belonging to the tribe, except such as may have been excepted from allotment and held in common for other purposes. Each allottee shall designate one tract of forty acres, which shall, by the terms of the deed, be made inalienable and nontaxable as a homestead in perpetuity.

## SEMINOLE TREATY.

(Ratified by Act of Congress, Approved June 2, 1900.)

AN ACT TO RATIFY AN AGREEMENT BETWEEN THE COMMISSION TO THE FIVE CIVILIZED TRIBES AND THE SEMINOLE TRIBE OF INDIANS. (31 STAT. L. 250.)

**Descent**—Second. If any member of the Seminole tribe of Indians shall die after the thirty-first day of December, eighteen hundred and ninety-nine, the lands, money, and other property to which he would be entitled if living shall descend to his heirs who are Seminole citizens, according to the laws of descent and distribution of the State of Arkansas, and be allotted and distributed to them accordingly: Provided, That in all cases where such property would descend to the parents under said laws the same shall first go to the mother instead of the father, and then to the brothers and sisters, and their heirs, instead of the father.

**ORIGINAL CREEK TREATY.**

(Ratified May 25, 1901.)

ACT OF MARCH 1, 1901,—AN ACT TO RATIFY AND CONFIRM AN AGREEMENT WITH THE MUSKOGEE OR CREEK TRIBE OF INDIANS, AND FOR OTHER PURPOSES. (31 STAT. L. 1058.)

**Restricting Alienation by Minors—4.** Allotment for any minor may be selected by his father, mother, or guardian, in the order named, and shall not be sold during his minority. All guardians or curators appointed for minors and incompetents shall be citizens.

Allotments may be selected for prisoners, convicts, and aged and infirm persons by their duly appointed agents, and for incompetents by guardians, curators or suitable persons akin to them, but it shall be the duty of said Commission to see that such selections are made for the best interests of such parties.

**Previous Allotments Confirmed—6.** All allotments made to Creek citizens by said Commission prior to the ratification of this agreement, as to which there is no contest, and which do not include public property, and are not herein otherwise affected, are confirmed, and the same shall, as to appraisement and all things else, be governed by the provisions of this agreement; and said Commission shall continue the work of allotment of Creek lands to citizens of the tribe as heretofore, conforming to provisions herein; and all controversies arising between citizens as to their right to select certain tracts of land shall be determined by said Commission.

**Allotments Inalienable and Non-Taxable—Descent of Homesteads—7.** Lands allotted to citizens hereunder

shall not in any manner whatsoever or at any time be incumbered, taken, or sold to secure or satisfy any debt or obligation contracted or incurred prior to the date of the deed to the allottee therefor, and such lands shall not be alienable by the allottee or his heirs at any time before the expiration of five years from the ratification of this agreement, except with the approval of the Secretary of the Interior.

Each citizen shall select from his allotment forty acres of land as a homestead, which shall be nontaxable and inalienable and free from any incumbrance whatever for twenty-one years, for which he shall have a separate deed, conditioned as above: Provided, That selections of homesteads for minors, prisoners, convicts, incompetents, and aged and infirm persons, who can not select for themselves, may be made in the manner herein provided for the selection of their allotments; and if, for any reason, such selection be not made for any citizen, it shall be the duty of said Commission to make selection for him.

The homestead of each citizen shall remain, after the death of the allottee, for the use and support of children born to him after the ratification of this agreement, but if he have no such issue, then he may dispose of his homestead by will, free from limitation herein imposed, and if this be not done, the land shall descend to his heirs, according to the laws of descent and distribution of the Creek Nation, free from such limitation.

**Allotment on Behalf of Dead Member—Sec. 28.** All citizens who were living on the first day of April, eighteen hundred and ninety-nine, entitled to be enrolled under section twenty-one of the act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight, entitled "An act for the protection of the people of the Indian Territory, and for other purposes," shall be placed upon the rolls to be made by said Commission under said act of Congress, and if any such citizen has died since that time, or may hereafter die, be-

fore receiving his allotment of lands and distributive share of all the funds of the tribe, the lands and money to which he would be entitled, if living, shall descend to his heirs according to the laws of descent and distribution of the Creek Nation, and be allotted and distributed to them accordingly.

All children born to citizens so entitled to enrollment, up to and including the first day of July, nineteen hundred, and then living, shall be placed on the rolls made by said Commission; and if any such child die after said date, the lands and moneys to which it would be entitled, if living, shall descend to its heirs according to the laws of descent and distribution of the Creek Nation, and be allotted and distributed to them accordingly.

The rolls so made by said Commission, when approved by the Secretary of the Interior, shall be the final rolls of citizenship of said tribe, upon which the allotment of all lands and the distribution of all moneys and other property of the tribe shall be made, and to no other persons.



## ACT OF MAY 27, 1902.

ACT OF MAY 27, 1902—ACT MAKING APPROPRIATION  
AND FOR FULFILLING TREATY STIPULATIONS WITH  
VARIOUS TRIBES OF INDIANS, AND FOR OTHER PUR-  
POSES. (32 STAT. L. 245.)

**Creek Law Repealed and 49th Chap. Mansfield's Digest of Ark., Adopted**—And provided further, That the Act entitled "An Act to Ratify and Confirm an Agreement with the Muscogee or Creek Tribe of Indians, and for other purposes," approved March 1, 1901, in so far as it provides for descent and distribution according to the laws of the Creek Nation, is hereby repealed and the descent and distribution of lands and moneys provided for in said Act shall be in accordance with the provisions of chapter forty-nine of Mansfield's Digest of the Statutes of Arkansas in force in the Indian Territory.

RESOLUTION OF CONGRESS MAKING THE ABOVE PRO-  
VISION EFFECTIVE JUNE 30, 1902. (32 STAT. L. 742.)

That the Act entitled, "An Act making appropriations for the current and contingent expenses of the Indian Department and fulfilling treaty stipulations with the various tribes of Indians for the fiscal year ending June 30th, nineteen hundred and three, and for other purposes," shall take effect from and after July first, nineteen hundred and two, except as otherwise specially provided therein.

## SUPPLEMENTAL CREEK TREATY.

(Proclaimed Aug. 8, 1902.)

ACT OF JUNE 30, 1902—AN ACT TO RATIFY AND CONFIRM A SUPPLEMENTAL AGREEMENT WITH THE CREEK TRIBE OF INDIANS, AND FOR OTHER PURPOSES. (32 STAT. L. 500.)

**Creek Law of Descent Repealed—Forty-Ninth Chap. of Mansfield's Digest Adopted**—6. The provisions of the act of Congress approved March 1, 1901 (31 Stat. L., 861), in so far as they provide for descent and distribution according to the laws of the Creek Nation, are hereby repealed, and the descent and distribution of land and money provided for by said act shall be in accordance with chapter 49 of Mansfield's Digest of the Statutes of Arkansas now in force in Indian Territory: Provided, That only citizens of the Creek Nation, male and female, and their Creek descendants shall inherit lands of the Creek Nation: And provided further, That if there be no person of Creek citizenship to take the descent and distribution of said estate then the inheritance shall go to noncitizen heirs in the order named in said chapter 49.

**Rolls of Citizenship**—7. All children born to those citizens who are entitled to enrollment, as provided by the act of Congress approved March 1, 1901 (31 Stat. L., 861), subsequent to July 1, 1900, and up to and including May 25, 1901, and living upon the latter date, shall be placed on the rolls made by said Commission. And if any such child has died since May 25, 1901, or may hereafter die before receiving his allotment of lands and distributive share of the funds of the tribe, the lands and moneys to which he would be entitled if living shall descend to his heirs as herein provided and be allotted and distributed to them accordingly.

8. All children who have not heretofore been listed for enrollment living May 25, 1901, born to citizens whose names appear upon the authenticated rolls of 1890 or upon the authenticated rolls of 1895 and entitled to enrollment as provided by the act of Congress approved March 1, 1901 (31 Stat. L., 861), shall be placed on the rolls made by said Commission. And if any such child has died since May 25, 1901, or may hereafter die before receiving his allotment of lands and distributive share of the funds of the tribe, the lands and moneys to which he would be entitled if living shall descend to his heirs as herein provided and be allotted and distributed to them accordingly.

**Allotments Restricted—Selections for Minors—Descent of Homesteads—16.** Lands allotted to citizens shall not in any manner whatever, or at any time, be encumbered, taken, or sold to secure or satisfy any debt or obligation nor be alienated by the allottee or his heirs before the expiration of five years from the date of the approval of this supplemental agreement, except with the approval of the Secretary of the Interior. Each citizen shall select from his allotment forty acres of land, or a quarter of a quarter section, as a homestead, which shall be and remain nontaxable, inalienable, and free from any incumbrance whatever for twenty-one years from the date of the deed therefor, and a separate deed shall be issued to each allottee for his homestead, in which this condition shall appear.

Selections of homesteads for minors, prisoners, convicts, incompetents, and aged and infirm persons, who can not select for themselves, may be made in the manner provided for the selection of their allotments, and if for any reason such selection be not made for any citizen it shall be the duty of said Commission to make selection for him. The homestead of each citizen shall remain, after the death of the allottee, for the use and support of children born to him after May 25, 1901, but if he have no such issue then he may dispose of his

homestead by will, free from the limitation herein imposed, and if this be not done the land embraced in his homestead shall descend to his heirs, free from such limitation, according to the laws of descent herein otherwise prescribed. Any agreement or conveyance of any kind or character violative of any of the provisions of this paragraph shall be absolutely void and not susceptible of ratification in any manner, and no rule of estoppel shall ever prevent the assertion of its invalidity.

## CHEROKEE TREATY.

(Ratified August 7, 1902.)

ACT OF JULY 1, 1902—AN ACT TO PROVIDE FOR THE ALLOTMENT OF THE LANDS OF THE CHEROKEE NATION, FOR THE DISPOSITION OF TOWNSITES THEREIN, AND FOR OTHER PURPOSES. (32 STAT. L., 716.)

**Homesteads Inalienable and Non-Taxable—Sec. 13.** Each member of said tribe shall, at the time of the selection of his allotment, designate as a homestead out of said allotment land equal in value to forty acres of the average allottable lands of the Cherokee Nation, as nearly as may be, which shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the certificate of allotment. Separate certificate shall issue for said homestead. During the time said homestead is held by the allottee the same shall be nontaxable and shall not be liable for any debt contracted by the owner thereof while so held by him.

**Allotments Inalienable—Sec. 14.** Lands allotted to citizens shall not in any manner whatever or at any time be incumbered, taken, or sold to secure or satisfy any debt or obligation, or be alienated by the allottee or his heirs, before the expiration of five years from the date of the ratification of this act.

**Surplus Alienable Five Years After Issuance of Patent—Sec. 15.** All lands allotted to the members of said tribe, except such land as is set aside to each for a homestead as herein provided, shall be alienable in five years after issuance of patent.

**Allotment to Heirs—Sec. 20.** If any person whose name appears upon the roll prepared as herein provided shall have died subsequent to the first day of September, nineteen hundred and two, and before receiving his allotment, the lands to which such person would have been entitled if living shall be allotted in his name, and shall, with his proportionate share of other tribal property, descend to his heirs according to the laws of descent and distribution as provided in chapter forty-nine of Mansfield's Digest of the Statutes of Arkansas: Provided, That the allotment thus to be made shall be selected by a duly appointed administrator or executor. If, however, such administrator or executor be not duly and expeditiously appointed, or fails to act promptly when appointed, or for any other cause such selection be not so made within a reasonable and proper time, the Dawes Commission shall designate the lands thus to be allotted.

**CHOCTAW AND CHICKASAW TREATY.**

(Act of July 1, 1902.)

AN ACT TO RATIFY AND CONFIRM AN AGREEMENT WITH  
THE CHOCTAW AND CHICKASAW TRIBES OF IN-  
DIANS, AND FOR OTHER PURPOSES. (32 STAT. L.,  
716.)

**Homesteads Inalienable**—12. Each member of said tribes shall, at the time of the selection of his allotment, designate as a homestead out of said allotment land equal in value to one hundred and sixty acres of the average allottable land of the Choctaw and Chickasaw nations, as nearly as may be, which shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of certificate of allotment, and separate certificate and patent shall issue for said homestead.

**Allotments Inalienable**—13. The allotment of each Choctaw and Chickasaw freedman shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of certificate of allotment. (See, supra, extract from Sec. 3, act of Apr. 26, 1906.)

**Allotments to Remain Unincumbered and Inalienable**—16. All lands allotted to the members of said tribes, except such land as is set aside to each for a homestead as herein provided, shall be alienable after issuance of patent as follows: One-fourth in acreage in one year, one-fourth in acreage in three years, and the balance in five years; in each case from date of patent: Provided, That such land shall not be alienable by the allottee or his heirs at any time before the expiration of the Choctaw and Chickasaw tribal governments for less than its appraised value.

## SEMINOLE TREATY CHANGE.

(Act of March 3, 1903.)

AN ACT MAKING APPROPRIATIONS FOR THE CURRENT AND CONTINGENT EXPENSES OF THE INDIAN DEPARTMENT AND FOR FULFILLING TREATY STIPULATIONS WITH VARIOUS INDIAN TRIBES, AND FOR OTHER PURPOSES.

**Perpetual Inalienableness of Homesteads Changed to Life Time of Allottee, not Exceeding Twenty-One Years—Sec. 8.** That the tribal government of the Seminole Nation shall not continue longer than March fourth, nineteen hundred and six: Provided, That the Secretary of the Interior shall at the proper time furnish the principal chief with blank deeds necessary for all conveyances mentioned in the agreement with the Seminole Nation contained in the act of July first, eighteen hundred and ninety-eight (Thirtieth Statutes, page five hundred and sixty-seven), and said principal chief shall execute and deliver said deeds to the Indian allottees as required by said act, and the deeds for allotment, when duly executed and approved, shall be recorded in the office of the Dawes Commission prior to delivery and without expense to the allottee until further legislation by Congress, and such records shall have like effect as other public records: Provided further, That the homestead referred to in said act shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the deed for the allotment. A separate deed shall be issued for said homestead, and during the time the same is held by the allottee it shall not be liable for any debt contracted by the owner thereof.



## ACT OF APRIL 21, 1904.

AN ACT MAKING APPROPRIATIONS FOR THE CURRENT AND CONTINGENT EXPENSES OF THE INDIAN DEPARTMENT AND FOR FULFILLING TREATY STIPULATIONS WITH VARIOUS TRIBES OF INDIANS, AND FOR OTHER PURPOSES. (33 STAT. L., 189.)

**Restrictions on Non-Indians, Except as to Minors and Homesteads, Removed**—And all the restrictions upon the alienation of lands of all allottees of either of the Five Civilized Tribes of Indians who are not of Indian blood, except minors, are, except as to homesteads, hereby removed, and all restrictions upon the alienation of all other allottees of said tribes, except minors, and except as to homesteads, may, with the approval of the Secretary of the Interior, be removed under such rules and regulations as the Secretary of the Interior may prescribe, upon application to the United States Indian agent at the Union Agency in charge of the Five Civilized Tribes, if said agent is satisfied upon a full investigation of each individual case that such removal of restrictions is for the best interest of said allottee. The finding of the United States Indian agent and the approval of the Secretary of the Interior shall be in writing and shall be recorded in the same manner as patents for land are recorded.

## ACT OF MARCH 3, 1905.

## INDIAN APPROPRIATION ACT. (33 STAT. L., 1048.)

That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of infant children born prior to September twenty-fifth, nineteen hundred and two, and who were living on said date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act; to enroll and make allotments to such children.

That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of children born subsequent to September twenty-fifth, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act; and to enroll and make allotments to such children.

That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of children born subsequent to May 25, nineteen hundred and one, and prior to March fourth, nineteen hundred and five, and living on said latter date, to citizens of the Creek tribe of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act; and to enroll and make allotments to such children.

That the Commission to the Five Civilized Tribes is authorized for ninety days after the date of the approval of this Act to receive and consider applications for enrollment of infant children born prior to March fourth, nineteen hundred and five, and living on said latter date, to citizens of the Seminole tribe whose enrollment has been approved by the Secretary of the Interior; and to enroll and make allotments to such children, giving to each an equal number of acres of land, and such children shall also share equally with other citizens of the Seminole tribe in the distribution of all other tribal property and funds.

## ACT OF APRIL 26, 1906.

AN ACT TO PROVIDE FOR THE FINAL DISPOSITION OF THE AFFAIRS OF THE FIVE CIVILIZED TRIBES IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES. (34 STAT. L., 137.)

**Enrollment of Children**—Sec. 2. That for ninety days after approval hereof applications shall be received for enrollment of children who were minors living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek tribes, or have applications for enrollment pending at the approval hereof, and for the purpose of enrollment under this section illegitimate children shall take the status of the mother, and allotments shall be made to children so enrolled.

**Lands of Choctaw and Chickasaw Freedmen to Be Homesteads**—Extract from Sec. 3. Lands allotted to freedmen of the Choctaw and Chickasaw tribes shall be considered "homesteads," and shall be subject to all the provisions of this or any other Act of Congress applicable to homesteads of citizens of the Choctaw and Chickasaw tribes.

**Patents to Issue in Name of Allottee**—Sec. 5. That all patents or deed to allottees in any of the Five Civilized Tribes to be hereafter issued shall issue in the name of the allottee, and if any such allottee shall die before such patent or deed becomes effective, the title to the lands described therein shall inure and vest in his heirs, and in case any allottee shall die after restrictions have been removed, his property shall descend to his heirs or lawful assigns, as if the patent or deed had issued to the allottee during his life, and all patents here-

tofore issued, where the allottee died before the same became effective, shall be given like effect; and all patents or deeds to allottees and other conveyances affecting lands of any of said tribes shall be recorded in the office of the Commissioner to the Five Civilized Tribes, and when so recorded shall convey legal title, and shall be delivered under the direction of the Secretary of the Interior to the party entitled to receive the same: Provided, The provisions of this section shall not affect any rights involved in contests pending before the Commissioner to the Five Civilized Tribes or the Department of the Interior at the date of the approval of this Act.

**Restrictions on Full-Bloods Extended—Taxation—Quantum of Indian Blood—Sec. 19.** That no full-blood Indian of the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this Act, unless such restriction shall, prior to the expiration of said period, be removed by act of Congress; and for all purposes the quantum of Indian blood possessed by any member of said tribes shall be determined by the rolls of citizens of said tribes approved by the Secretary of the Interior: Provided, however, That such full-blood Indians of any of said tribes may lease any lands other than homesteads for more than one year under such rules and regulations as may be prescribed by the Secretary of the Interior; and in case of the inability of any full-blood owner of a homestead, on account of infirmity of age, to work or farm his homestead, the Secretary of the Interior, upon proof of such inability, may authorize the leasing of such homestead under such rules and regulations: Provided, further, That conveyances heretofore made by members of any of the Five Civilized Tribes subsequent to the selection of allotment and subsequent to removal of restriction, where patents thereafter issue, shall not be deemed or held invalid solely because said conveyances were made prior to issuance

and recording or delivery of patent or deed; but this shall not be held or construed as affecting the validity or invalidity of any such conveyance, except as herein-before provided; and every deed executed before, or for the making of which a contract or agreement was entered into before the removal of restrictions, be and the same is hereby, declared void: Provided, further, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands shall be exempt from taxation as long as the title remains in the original allottee.

**Conveyance of Inherited Lands—Removal of Restrictions—Sec. 22.** That the adult heir of any deceased Indian of either of the Five Civilized Tribes whose selection has been made, or to whom a deed or patent has been issued for his or her share of the land of the tribe to which he or she belongs or belonged, may sell and convey the lands inherited from such decedent; and if there be both adult and minor heirs of such decedent, then such minors may join in a sale of such lands by a guardian duly appointed by the proper United States court for the Indian Territory. And in case of the organization of a State or Territory, then by a proper court of the county in which said minor or minors may reside or in which said real estate is situated, upon an order of such court made upon petition filed by the guardian. All conveyances made under this provision by heirs who are full-blood Indians are to be subject to the approval of the Secretary of the Interior, under such rules and regulations as he may prescribe.

**Right to Will—Limitation on Full-Blood Indian—Sec. 23.** Every person of lawful age and sound mind may by last will and testament devise and bequeath all of his estate, real and personal, and all interest therein: Provided, That no will of a full-blood Indian devising real estate shall be valid, if such last will and testament disinherits the parent, wife, spouse, or children of such full-blood Indian, unless acknowledged before and approved by a Judge of the United States court for the Indian Territory, or a United States Commissioner.

**ENABLING ACT.**

(Effective November 16, 1907.)

ACT OF JUNE 16, 1906—AN ACT TO ENABLE THE PEOPLE OF OKLAHOMA AND OF THE INDIAN TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT AND BE ADMITTED TO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES. (34 STAT. L. 267.)

**Laws of Oklahoma Territory Extended to State of Oklahoma—Sec. 13.** \* \* \* and that the laws in force in the Territory of Oklahoma as far as applicable, shall extend over and apply to said state until changed by the legislature thereof.

**Sec. 21.** \* \* \* and the laws in force in the Territory of Oklahoma at the time of the admission of said state, except as modified or changed by this act or by the constitution of the state, and the laws of the United States not locally inapplicable shall have the same force and effect within said state as elsewhere within the United States.

**Provision in Oklahoma Constitution—Sec. 2 of Schedule.** All laws in force in the Territory of Oklahoma at the time of the admission of the State into the Union, which are not repugnant to this constitution, and which are not locally inapplicable, shall extend to and remain in force in the State of Oklahoma until they expire by their own limitation or are altered or repealed by law.

**OKLAHOMA LAW.**

See "Succession," Article IV, Chap. 82 Revised Laws of Oklahoma A. D. 1910, Sec. 8416 to 8435, inclusive. This statute repeats the one in force in Oklahoma Territory at the time of statehood and which has since remained the law, excepting the two sections on "escheat to the state."

## ACT OF MAY 27, 1908.

(Effective July 26, 1908.)

AN ACT FOR THE REMOVAL OF RESTRICTIONS FROM  
PART OF THE LANDS OF ALLOTTEES OF THE FIVE  
CIVILIZED TRIBES, AND FOR OTHER PURPOSES. (35  
STAT. L., 312.)

**Removal of Restrictions on Some Lands—Continuation of Restriction on Others—Power of Secretary of the Interior to Remove—Sec. 1.** That from and after sixty days from the date of this Act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites, as freedmen, and as mixed-blood Indians having less than half Indian blood including minors shall be free from all restrictions.. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half and less than three-quarters Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood, including minors of such degrees of blood, and, all allotted lands of enrolled full-bloods, and enrolled mixed-bloods of three-quarters or more Indian blood, including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney, or other incumbrance prior to April sixth, nineteen hundred and thirty-one, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians, as he may pre-



scribe. The Secretary of the Interior shall not be prohibited by this Act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this Act.

**Rolls Conclusive Evidence of Age and Quantum of Blood—Status of Prior Leases—Sec. 3.** That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen or freedman of said tribes and of no other persons to determine questions arising under this Act and the enrollment records of the Commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman.

That no oil, gas, or other mineral lease entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall be rendered invalid by this Act, but the same shall be subject to the approval of the Secretary of the Interior as if this Act had not been passed: Provided, That the owner or owners of any allotted land from which restrictions are removed by this Act, or have been removed by previous Acts of Congress, or by the Secretary of the Interior, or hereafter may be removed under and by authority of any Act of Congress, shall have power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of said lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

**Unrestricted Lands Subject to Taxation—Exemption from Prior Claims—Sec. 1.** That all lands from which restrictions have been or shall be removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: Provided, that allotted lands shall not be subjected or held liable, to any form of personal claim, or demand, against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law.

**Age of Minors—Sec. 2.** That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee if an adult, or by guardian or curator under order of the proper probate court if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: Provided, That leases of restricted lands for oil, gas or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years, may be made with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: AND PROVIDED FURTHER, THAT THE JURISDICTION OF THE PROBATE COURTS OF THE STATE OF OKLAHOMA OVER LANDS OF MINORS AND INCOMPETENTS SHALL BE SUBJECT TO THE FOREGOING PROVISIONS, AND THE TERM MINOR OR MINORS, AS USED IN THIS ACT, SHALL INCLUDE ALL MALES UNDER AGE OF TWENTY-ONE YEARS AND ALL FEMALES UNDER THE AGE OF EIGHTEEN YEARS..

**Conveyance of Restricted Lands Void—Sec. 5.** That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this Act, which affects

the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation of law before or after the approval of this Act shall be absolutely null and void.

**Jurisdiction of Probate Courts Over Minors' Estates—Sec. 6.** That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the state of Oklahoma.

**Wills of Full-Blood Indians—Sec. 8.** That section twenty-three of an Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, is hereby amended by adding at the end of said section, the words "or a judge of a county court of the State of Oklahoma."

**Restrictions Removed From Inherited Lands—Certain Homesteads Excepted—Restrictions on Full-Blood Heirs—Sec. 9.** That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: Provided, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee: Provided, further, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March fourth, nineteen hundred and six, the homestead of such deceased allottee shall remain inalienable, unless restrictions against such alienation are removed therefrom by the Secretary of the Interior in the manner provided in section one hereof, for the use and support of such issue, during their life or lives, until April twenty-sixth, nineteen hundred

and thirty-one; but if no such issue survive, then such allottee, if an adult, may dispose of his homestead by will free from all restrictions; if this be not done, or in the event the issue hereinbefore provided for die before April twenty-sixth, nineteen hundred and thirty-one, the land shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: Provided, further, That the provisions of section twenty-three of the Act of April twenty-sixth, nineteen hundred and six, as amended by this act, are hereby made applicable to all wills executed under this section.. .

## ACT OF JUNE 25, 1910.

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AN ACT TO PROVIDE FOR DETERMINING THE HEIRS OF DECEASED INDIANS, FOR THE DISPOSITION AND SALE OF ALLOTMENTS OF DECEASED INDIANS, FOR THE LEASING OF ALLOTMENTS AND FOR OTHER PURPOSES. (36 STAT. L., 855.)

**Deed After Death of Allottee—Sec. 32.** Where deeds to tribal lands in the Five Civilized Tribes have been or may be issued, in pursuance of any tribal agreement or Act of Congress, to a person who had died or who hereafter dies before the approval of such deed, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assigns of such deceased grantee during life.

*See also Sec. 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.*

## ACT OF FEBRUARY 19, 1912.

AN ACT TO PROVIDE FOR THE SALE OF THE SURFACE  
OF THE SEGREGATED COAL AND ASPHALT LANDS  
OF THE CHOCTAW AND CHICKASAW NATIONS, AND  
FOR OTHER PURPOSES. (37 STAT. L., 67.)

**Issuance of the Patent—Sec. 7.** That when the full purchase price for any property sold herein is paid, the chief executive of the two tribes shall execute and deliver, with the approval of the Secretary of the Interior, to each purchaser an appropriate patent or instrument of conveyance conveying to the purchaser the property so sold, and all conveyances made under this act shall convey the fee in the land with reservation to the Choctaw and Chickasaw Tribes of Indians of the coal and asphalt in such land, and shall contain a clause or clauses reciting and containing the reservations, restrictions, covenants, and conditions under which said property was sold, as herein provided, and said conveyance shall specifically provide that the reservations, restrictions and covenants, and conditions therein contained shall run with the land and bind the grantees, successors, representatives, and assigns of the purchaser of the surface: Provided, That the purchaser of the surface of any coal or asphalt land shall have the right at any time before final payment is due to pay the full purchase price on the surface of said coal or asphalt land, with accrued interest, and shall thereupon be entitled to patent therefor, as herein provided.

**United States Supreme  
Court Cases**

## UNITED STATES SUPREME COURT CASES.

TAYLOR VS. BROWN, 147 U. S. 639, 41 L. ED. 196—Inalienability of Indian title—Fraction of a day—Day patent issued included.

STEPHENS VS. CHEROKEE NATION, 174 U. S. 483, 43 L. ED. 1041—Power of Congress to provide for review of actions of commissions—Validity of act providing for appeal—Act of congress not invalid because it supersedes a treaty—Citizenship in Indian tribes.

U. S. VS. CHOCTAW NATION AND CHICKASAW NATION, 179 U. S. 496, 45 L. ED. 292—Effect of Treaty—Estoppel—Intent of Indians—Implied Trust.

LONE WOLF VS. HITCHCOCK, 187 U. S. 556, 47 L. ED. 299—Power of congress over tribal relations—Allotment in severalty.

RED BIRD VS. U. S., 203 U. S. 80, 50 L. ED. 96—Cherokee enrollment—Rights of intermarried whites—Cherokee laws, effect of compilation.

WALLACE VS. ADAMS, 204 U. S. 415, 51 L. ED. 547—Validity of Choctaw and Chickasaw citizenship court—Vested rights.

FRANCIS VS. FRANCIS, 203 U. S. 233, 51 L. ED. 165—Rule of property—Court decisions.

GARFIELD VS. GOLDSBY, 211 U. S. 249, 52 L. ED. 168—Deciding that after the Secretary of the Interior has approved name for enrollment it cannot be stricken without notice.

FLEMING VS. McCURTAIN, 215 U. S. 56, 54 L. ED. 8—Grant to Choctaw nation.

BALLINGER VS. FROST, 216 U. S. 240, 54 L. ED. 464—Right of courts to review acts of executive department—Bind-



ing effect of acts of congress—Title to allotment—Mandamus to compel delivery of Cherokee patent.

TIGER VS. WESTERN INVESTMENT CO., 221 U. S. 286, 55 L. ED. 738—Policy of congress in legislating to protect Indians—Determination by congress and not by courts—Preservation of authority of U. S. over Indians provided for in Oklahoma enabling act—Construing acts of April 26, 1906, and May 27, 1908—Conferring citizenship does not deprive of right to legislate concerning tribal property—Continuing restrictions.

CHEROKEE NATION VS. WHITMIRE, 223 U. S. 108, 56 L. ED. 370—Enrollment of Cherokees. .

LOWE VS. FISHER, 223 U. S. 95, 56 L. ED. 364—Construing acts of 1902, and 1906—Enrollment of Cherokee freedmen—Power of Secretary to strike names from the rolls.

JACOBS VS. PRITCHARD, 223 U. S. 200, 56 L. ED. 405—Power of congress to determine in allotting Indian lands how they shall be alienated—Ambiguity—Construction by department.

CHOATE VS. TRAPP, 224 U. S. 665, 56 L. ED. 941—Power to abrogate a statute—Destruction of rights acquired under it—Choctaw and Chickasaw Indians—Patent to land—Tax exemption—Removal of restrictions—Oklahoma Constitutional recognition of tax exemption.

HECKMAN VS. UNITED STATES, 224 U. S. 413, 56 L. ED. 820—Capacity of United States to sue to set aside conveyances within statutory period of restriction—Power of congress to extend restrictions—Void conveyance—Return of consideration—Suit to cancel.

GRITTS VS. FISHER, 224 U. S. 640, 56 L. ED. 928—Right of Cherokee children born after Sept. 1, 1902, and living March 4, 1906, to enrollment—Act of congress not a contract.

GOAT VS. UNITED STATES, 224 U. S. 458, 56 L. ED. 841—Conveyances by Seminole Indians in violation of statutory restrictions—Right of U. S. to maintain suits—Reviewing relations of U. S. to Seminole Indians.

DEMING INVESTMENT CO. VS. UNITED STATES, 224 U. S. 471, 56 L. ED. 847—Validity of conveyances of lands allotted to Seminole Indians—Right of U. S. to maintain suits to cancel.

MULLEN VS. UNITED STATES, 224 U. S. 448, 56 L. ED. 834—Descent, unrestricted, of land where a person whose name appeared on the rolls of the Choctaw Indians died after agreement and before receiving the allotment—Inability of U. S. to maintain action to set such conveyance aside.

SHULTHIS VS. McDOUGAL, 225 U. S. 561, 56 L. ED. 1205—Effect of act of congress putting laws of Arkansas in force in the Indian Territory—Jurisdiction of Federal court.

STARR VS. LONG JIM, 227 U. S. 613, 57 L. ED. 613—Inability of allottee Indian to convey before patent and during suspension of alienation—Estoppel.

KNIGHT VS. LANE, 228 U. S. 6, 57 L. ED. 709—Allotment of Cherokee lands—Power of Secretary of the Interior—Review of action of officer of department.

ROSS VS. DAY, 232 U. S. 110, 58 L. ED. 528—Preferential right of selection of an allotment—Question of fact—Findings of Secretary of the Interior.

FRANKLIN VS. LYNCH, 233 U. S. 269, 58 L. ED. 954—Construing act of April 21, 1904—Incapacity of individual members to sell future allotments—Intermarried whites—Mansfield's Digest.

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UNITED STATES VS. BARTLETT, 235 U. S. 72—Restrictions terminated by lapse of time—Act of May 27, 1908—Removed by prior law.

SAGE VS. HAMPE, 235 U. S. 99—States cannot disregard policy of U. S. to protect the Indians.

SKELTON VS. DILL, 235 U. S. 206—Allotments made on behalf of a dead member—Creek Indian allotments under original and supplemental treaties.

ADKINS VS. ARNOLD, 235 U. S. 417—As above.

ROBINSON VS. BELT, 187 U. S. 41—As above.

WASHINGTON VS. MILLER, 235 U. S. 422—Laws of descent—Creek tribal law—Mansfield's Digest of Arkansas—Creek treaties—Repeals by implication—General and special statutes—Non-citizen heirs.

SIZEMORE VS. BRADY, 235 U. S. 441—Descent and distribution of a Creek allotment—Creek treaties—Power of congress to change administrative control over Indian tribes while tribal relations continue.

TRUSKETT VS. CLOSSER, 236 U. S. 223—Construing sec. 6, Act May 27, 1908—Jurisdiction of probate courts over property of minors of Five Civilized tribes—Rule of property.

REYNOLDS VS. FEWELL, 236 U. S. 58—Descent and distribution—Creek tribal laws—Arkansas law—Rights of non-citizens to inherit.

SHELLENBARGER VS. FEWELL, 236 U. S. 68—Rights of non-citizen to inherit.

MCDUGAL VS. MCKAY, 237 U. S. 372—Attitude of court toward decisions of state and federal courts on descent that have become rules of property—Ancestral estates—New acquisitions—Creek treaties—Allotment under Supplemental Creek agreement ancestral estate—Chap. 49, Mansfield's Digest of Ark.

PIGEON VS. BUCK, 237 U. S. 386—Following above.

U. S. VS. NOBLE, 237 U. S. 74—Rents and royalties personal property of real estate—Leases—Restrictions for specific period.

WOODWARD VS. DEGRAFFENRIED, 238 U. S. 284—Restrictions on alienation in original Creek agreement not applicable to allotments made on behalf of deceased members—Rights of non-citizen husband under Creek law—Curtis Act.

WILLIAMS VS. JOHNSON, 239 U. S. 414—Act of April 21, 1904, removing restrictions on alienation of allotments of Choctaw Indians imposed by Act of July 1, 1902, was within power of congress—Indians are wards of the nation.

PORTER VS. WILSON, 239 U. S. 170—Acceptance by U. S. supreme court of decision of highest court of the state that state constitution was not violated by trial court—Creek Indian inheritance—Legalizing Indian marriages.

LA ROQUE VS. U. S., 239 U. S. 170—Construction of an act of congress by Secretary of the Interior not conclusive but entitled to respect.

JOHNSON VS. RIDDLE, 240 U. S. 467—Effect of findings of fact by commission, or inspector, confirmed on appeal by Secretary of Interior, in the absence of gross mistake or fraud—Atoka agreement, act of June 28, 1898, superseded all customs.

*U. S. Supreme Court Cases Continued.*

*U. S. Supreme Court Cases Continued.*

*U. S. Supreme Court Cases Continued.*

*U. S. Supreme Court Cases Continued.*



## **Federal Court Cases**

## FEDERAL COURT CASES.

(Cases appealed to the United States Supreme Court will be found in the Supreme court cases.)

WILSON VS. OWENS, 86 FED. 572—Statute of frauds in the Indian Territory—Lease of lands—Laws of Indian tribes must be pleaded.

KIMBERLIN VS. COMMISSION, 104 FED. 653—Commission to Five Civilized Tribes a special tribunal to determine tribal citizenship.

WALLACE VS. ADAMS, 143 FED. 716—Validity of Citizenship court—Jurisdiction of U. S. courts in the Indian Territory—Effect of allotment by the Dawes Commission.

MORRISON VS. BURNETTE, 154 FED. 617—Indians—Minor allotments—Secretary of the Interior has no jurisdiction over leases.

GOODRUM, ET AL. VS. BUFFALO, 162 FED. 817—Jurisdiction of federal court to extend power of alienation over restricted Indian land—Quapaw allotment.

LIGON, ET AL. VS. JOHNSTON, ET AL., 164 FED. 670—Disposition of Indian lands—Choctaw and Chickasaw grant—Power of congress.

HARRIS VS. HARDRIDGE, ET AL., 166 FED. 109—Contract for the sale of restricted lands void—Creek freedman's allotment.

ELLIOTT VS. GARVIN, 166 FED. 278—Recovery of consideration from decedent's estate in the Chickasaw nation on failure of title—Probate courts.

W. O. WHITNEY LUMBER & GRAIN CO. VS. CRABTREE, 166 FED. 738—Indian lands—Right of lessee—Ejectment.

MOORE VS. SAWYER, ET AL., E. D. OK., 167 FED. 826—Power of Creek Indian to alienate by leasing—Avoidance of contract by infant—Fraud—Cancellation—Mines and minerals—Construction of oil lease.

TURNER VS. SEEP, ET AL, E. D. OK., 167 FED. 646  
—Oil lease—Void assignments—Rights of lessor—Damages.

SHULTHIS VS. McDOUGAL, 170 FED. 529—Descent—  
New acquisition—Power to convey—Oil lease.

HAYES VS. BARRINGER, 168 FED. 221—Choctaw and  
Chickasaw Indian lands—Will an alienation—Rights of en-  
rolled members.

ALFRED, ET AL. VS. COLBERT, 168 FED. 231—Valid-  
ity of deed of minor—Restrictions on alienation of Creek land.

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on alienation of Indian lands—Right of U. S. to maintain suits  
—Effect of Citizenship—Parties to suit—Multifariousness—  
Pleading—Power of congress to extend restrictions.

MIDLAND OIL CO. VS. TURNER, 179 FED. 74—Leases  
on Indian lands—Approval of assignment by Secretary of the  
Interior—Trespass—Mines and minerals—Receivers—Expense  
of operating wells.

UNITED STATES VS. McMURRY, E. D. OK., 181 FED.  
723—Leases of coal lands of Choctaw and Chickasaw nations.

UNITED STATES VS. RUNDELL, ET AL., E. D. OK. 181  
FED. 887—Right of U. S. to enforce in equity court restrictions  
on land without joining allottee in his lifetime, or his heirs  
after death.

UNITED STATES VS. BELLM, E. D. OK., 182 FED. 161—  
Right of U. S. to maintain suit to set aside deed to allotted land  
although made under order of court.

BETTES VS. BROWER, E. D. OK., 184 FED. 342—Ju-  
dicial notice of degree of Indian blood not to be taken—Power  
of guardian to lease ward's land.

UNITED STATES VS. SHOCK, E. D. OK., 187 FED. 862  
—Lands exempt from taxation—Lands of Creek minors—In-  
herited lands—Construction of statutes.

HARRIS VS. GALE, E. D. OK., 188 FED. 712—Alienation  
of land—Construing statute of May 27, 1908.

FRAME VS. BIVENS, ET AL., E. D. OK., 189 FED. 785  
—Alienation of surplus lands—Construction of Act of April  
21, 1904—Mortgage—Conveyance.

BOWLING, ET AL. VS. UNITED STATES, 191 FED. 19—Restriction running with the land—Right of U. S. to enforce by suit—Res judicata.

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UNITED STATES VS. JACOBS, ET AL., 195 FED. 707—Sale of Indian lands—Restrictions on alienation—Construction of statutes—Suit to cancel patent—Bona fide purchaser.

UNITED STATES VS. NOBLE, ET AL., 197 FED. 292—Mineral lease on Indian lands—Extension—Restrictive sale.

UNITED STATES VS. WRIGHT, 197 FED. 297—Time infants attain majority—Leases by minor—Mineral lands—Fraction of a day.

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IN RE LANDS OF FIVE CIVILIZED TRIBES, 199 FED. 811—Restriction on alienation—Effect of death of allottee—Construction of treaties—"Date of Patent"—Allotment to freedmen—Status—Homesteads of deceased Seminoles—Homesteads of deceased Creek allottees—Suits by U. S. to set aside a large number of illegal conveyances—30,000 land suits.

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UNITED STATES VS. GRAY, 201 FED. 291—Leases and rights—Pleading and practice—Capacity of U. S. to sue to enforce governmental rights.

UNITED STATES VS. COMET OIL AND GAS CO., ET AL., 202 FED. 849—Liability of bond on gas lease on Indian lands—Royalties.

BARTLETT, ET AL. VS. UNITED STATES, 203 FED. 410—Power of congress to reimpose restrictions after expiration—Construing Act of May 27, 1908, and its effect on lands where restrictions previously imposed had expired.

PRIDDY VS. THOMPSON, 204 FED. 955—Effect of decrees of Oklahoma courts on restriction on minor's land—Allotment to minor—Creek agreements—Right to maintain oil and gas lease.

UNITED STATES VS. KNIGHT, 206 FED. 145—Validity of Indian conveyance by heirs of a deceased allottee depends on the law in force at the date of the deed—Act of May 27, 1898, as to requirement of approval of Secretary of the Interior in addition to the approval of court having jurisdiction of settlement of estate of deceased allottee.

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UNITED STATES VS. MARSHALL, ET AL., 210 FED. 595—Decree in equity—Allotment patents—Cancellation—Fraud—Evidence.

MALONE, ET AL. VS. ALDERDICE, 212 FED. 668—Commission to Five Civilized Tribes a quasi judicial tribunal—Jurisdiction, Judgments—Enrollment—Record of ages—Retroactive operation—Statutes.

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NUNN VS. HAZELRIGG, 216 FED. 330—Conclusiveness of rolls made by commission—Validity of conveyance by allottee.

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WILLIAMS, ET AL. VS. WHITE, ET AL., 218 FED. 797—Indian lands—Possession—Recovery—Power of attorney.

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UNITED STATES VS. FERGUSON, 225 FED. 974—Conclusiveness of enrollment by Commission—Quantum of Indian blood—Act of April 26, 1906.

UNITED STATES VS. FOOSHEE, ET AL., 225 FED. 521—Conveyance by devisee of enrolled Choctaw Indian without approval of Secretary of the Interior—Alienation of lands.

UNITED STATES VS. COOK, ET AL., 225 FED. 756—Homestead of Creek allottees dying intestate, leaving no issue born after May 25, 1901, free from restrictions—Sec. 16 Supplemental Creek treaty—"Limitation."

UNITED STATES VS. STIGALL, 226 FED. 190—Enrollment of Creek Indian full-blood as Seminole by adoption held not an adjudication whether she was a white woman or an Indian, so that her grantee was entitled to trial of such issue.

UNITED STATES VS. WESTERN INVESTMENT CO., 226 FED. 726—Act April 26, 1906, prohibiting full-blood heir of a deceased Indian from conveying his land without approval of the Secretary of the Interior applies to such a conveyance thereafter made, though after the period that the Creek Agreement made the land, allotted to deceased, inalienable without such approval—Requirement of approval of court having jurisdiction of estate of deceased for full-blood heir to convey under Act May 27, 1908.

ANICKER VS. GUNSBURG, 226 FED. 176—Act May 27, 1908, par. 2, Act March 1, 1907, and rule of Department of Interior, held that Secretary's approval of Indian oil and gas lease, filed within 30 days, established its priority to subsequent lease previously filed.

BARBRE VS. HOOD, 228 FED. 658—Minor Indian who has conveyed by void deed need not comply with Oklahoma law to restore purchase price (Sec. 885 Rev. Laws Okla. 1910)—Act May 27, 1908, giving Oklahoma probate courts jurisdiction of minor allottees of Five Tribes and their property, "except as otherwise specifically provided by law," held to refer to Federal laws—Probate jurisdiction exclusive of other tribunals.

KEMMERER VS. MIDLAND OIL & DRILLING CO., 229 FED. 872—Lease of lands—Subsequent lease of mining rights—Act of May 27, 1908—Preliminary injunction—Discretion of the court—Severance of oil and gas rights from the surface.

MCDANIEL, ET AL. VS. HOLLAND, 230 FED. 945—Right of adult Cherokee Indian to sue in ejectment to recover allotted lands conveyed to him while he was a minor—Documentary evidence—Conclusiveness—Under Act of May 27, 1908, enrollment record giving age of an Indian as 9 years is conclusive that on that date he had passed his 9th birthday and had not yet reached his tenth, but is not conclusive that he was exactly 9 years of age on that day, and does not establish that he was a minor when he made a conveyance of land one month less than 12 years thereafter—Construction of department, effect of.

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FOLK VS. U. S., 233 FED. 178—Conclusiveness of the adjudication by the Dawes Commission of the enrollment of Indians and the allotment of their lands and the patents issued thereon—Impervious to collateral attack—Suits in equity to avoid direct attack—Burden on him who attacks them—Enrollment—Presumption as to continuance of life—Actions—Parties—Pecuniary interest.

HOPKINS VS. U. S., 235 FED. 95—A Creek Indian allottee of three-quarter blood, who was a minor on July 27, 1908, when act of May 27, 1908, became effective, was under restrictions so that the act imposed a continuation of restrictions after he attained majority.

ETCHEN VS. CHENEY, 235 FED. 104—Under Act of May 27, 1908, deeds of Indian minors to allotments of lands in Oklahoma, made without authority of the probate court, are void—An oil and gas lease, executed by the guardian of an Indian minor in Oklahoma and approved by the proper probate court, is valid for its term, although the minor reaches majority before its expiration.

YOUNGKEN VS. DAVID, 235 FED. 621—Act of April 26, 1906, restricting alienation of the lands by Indians of the full-blood, construed, and held not to apply to lands allotted to such



Indians as heirs of a deceased member of the tribe—Right of heirs of the full-blood of a Cherokee Indian to convey lands selected for him by his administrator after his death held not restricted by sec. 22, Act April 26, 1906.

HARRIS VS. BELL, 235 FED. 626—Lands allotted by the commission in the name of a deceased Creek child held to have descended to his heirs according to Mansfield's Digest of Arkansas, sec. 2522-2545, free from restrictions on alienation.

*Federal Court Cases Continued.*

*Federal Court Cases Continued.*

*Federal Court Cases Continued.*

# **Oklahoma Supreme Court Cases**

## OKLAHOMA SUPREME COURT CASES.

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REEVES CO. VS. SHEETS, 16 OKLA. 484—Lease of Indian lands.

WILLIAMS VS. STEINITZ, 16 OKLA. 104—Lease of Indian lands.

DEGRAFFENRIED VS. IOWA LAND & TRUST CO., 20 OKLA. 687—Title acquired to allotment—Statutory provisions—descent—Agreements.

LEWIS VS. CLEMENTS, 21 OKLA. 167—Deciding the validity of a contract for the sale of a surplus allotment before restrictions removed.

GODFREY VS. IOWA LAND AND TRUST CO., 21 OKLA. 293—Deciding the right of a Seminole non-Indian to sell his surplus after selection and before issuance and delivery of patent.

WESTERN INVESTMENT CO. VS. TIGER, 21 OKLA. 630 (221 U. S. 287)—Power of congress to legislate for Indians—Approval of Secretary on conveyances of full-bloods after April 26, 1906.

HAWKINS VS. STEVENS, 21 OKLA. 849—Deciding the rights of a non-citizen widow of an allottee to dower.

WALKER VS. ROBERSON, 21 OKLA. 894—Deciding that a member of Creek tribe holding excessive lands could not hold it for benefit of a child born subsequently.

BODLE VS. SHOENFELT, 22 OKLA. 94—Deciding the rights of a non-citizen husband in the estate of his citizen wife under the law of descent and distribution in the Creek nation.

IN RE BROWN'S ESTATE, 22 OKLA. 216—Deciding the laws governing wills and descent and distribution in the Creek nation Nov. 13, 1905, the rights of a pretermitted child; and the rights of a child born after May 25, 1901, to the inheritance of a homestead.

LANDRUM VS. GRAHAM, 22 OKLA. 458—The validity of a mortgage by a Cherokee allottee on surplus subsequent to the Act of April 21, 1904.

WESTERN INVESTMENT CO. VS. KISTLER, 22 OKLA. 222—Liability of surplus allotment on which restrictions have been removed for debt incurred prior to removal of such restrictions.

MUSKOGEE DEVELOPMENT CO. VS. GREEN, 22 OKLA. 237—Accounting for improvements on a lease entered into in good faith, but afterwards found to be void.

WHITHAM VS. LEHMER, 22 OKLA. 627—Deciding the question of a multiple of leases on a Creek nation allotment.

WILLIAMS VS. WILLIAMS, 22 Okla. 672—Right of allottee to lease for agricultural purposes.

ELROD VS. LOAN AND TRUST COMPANY, 22 OKLA. 742—Deciding that a lease is an alienation of lands.

McWILLIAMS INV. CO. VS. LIVINGSTON, 22 OKLA. 884—Deciding validity of a non-Indian Creek citizen deed.

IRVING VS. DIAMOND, 23 OKLA. 325—Deciding the descent of land of a minor Creek freedman.

SHARP VS. LANCASTER, 23 OKLA. 349—Deciding the validity of an oil lease on lands of either of five tribes after the Act of April 21, 1904.

BAKER VS. HAMMETT, 23 OKLA. 480—Deciding that the Creek Supplemental Agreement became effective Aug. 8, 1902.

REED VS. CLINTON, 23 OKLA. 610—Deciding the rights of a white person as an heir.

BECK VS. JACKSON, 23 OKLA. 812.—Validity of the contract of an Indian, after the Curtis Act and before the Original Creek treaty, purporting to bind infants.

HANCOCK VS. MUTUAL TRUST CO., 24 OKLA. 391—Deciding right of heirs to convey lands allotted on behalf of a deceased member of the Choctaw tribe.

BLAKEMORE VS. JOHNSON, 24 OKLA. 544—Deciding a deed by a Creek minor, freedman, for surplus allotment to be void, executed April 25, 1904; also the right of a minor to maintain an action to set aside a void deed. Consideration.

TATE VS. GAINES, 25 OKLA. 141—Rights of grantee in void deed to lands, equity jurisdiction of townsite commissioners.

ROSS VS. STEWART, 25 OKLA. 611—Jurisdiction of townsite commissioners—Patent from such commissioners.

BRAGDON VS. MCSHEA, 26 OKLA. 35—Restricted Creek surplus inalienable.

BARTLESVILLE VITRIFIED BRICK CO. VS. BARKER, 26 OKLA. 144—Allotment contest, power to cancel, recovery of land.

JEFFERSON VS. WINKLER, 26 OKLA. 653—Deciding power of minor to sell under the order of the probate court after the Act of May 27, 1908, if minor of less than half-blood. Males under 21 and females under 18 must sell allotted land through the probate court.

BRUNER VS. SANDERS, 26 OKLA. 673—Descent of Seminole land.

BOUDINOT VS. MORRIS, 26 OKLA. 768—Rights of intermarried whites in the Cherokee nation.

KEEL VS. INGERSOLL, 27 OKLA. 117—Mechanic's liens on improvement on homestead allotment.

MOORE VS. O'DELL, 27 OKLA. 194—Townsite on allotment—Admissibility of evidence in ejectment.

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SCRAPER VS. BOGGS, 27 OKLA. 715—Leases and restrictions on allotments.

LAMB VS. BAKER, 27 OKLA. 739—Descent and distribution of Creek allotments.

DENVER, W. & M. RY. CO. VS. ADKINSON, 28 OKLA. 1—Certificate as evidence of title of allotment—Ejectment—Descent and Distribution of allotment in the Creek Nation—Allotment—Rights of surviving non-citizen husband—Validity of Deeds—Creek nation law of descent.



BARNES VS. STONEBRAKER, 27 OKLA. 75—Validity of oil and gas leases on restricted allotment—Options.

HOOKS VS. KENNARD, 28 OKLA. 457—Descent and distribution of Creek lands under Original treaty—Effect of patent—Allotment.

HOWARD VS. FARRAR, 28 OKLA. 490—Alienation of restricted lands—Indemnity notes.

SMITH AND STEELE VS. MARTIN, 28 OKLA. 836—Contracts with an Indian relative to lands of his tribe.

MAHARRY VS. EATMAN, 29 OKLA. 46—Approval by Secretary of the Interior of deed executed after act of May 27, 1908—Court's approval.

KIRKPATRICK VS. BURGESS, 29 OKLA. 121—Effect of marriage on guardianship.

ROSS VS. WRIGHT, 29 OKLA. 186—Improvements on an allotment.

HARRIS VS. LYNDE-BOWMAN-DARBY CO., 29 OKLA. 362—Validity of mortgage by allottee.

WILSON VS. MORTON, 29 OKLA. 745—Procedure by guardian of sale of Cherokee minor children.

BARNETT VS. WAY, 29 OKLA. 780—Descent and distribution of Creek allotment.

HARPER VS. KELLY, 29 OKLA. 809—Allotments—Alienation—Contract.

STEVENS VS. ELLIOTT, 30 OKLA. 41—Cancelling deed—Conveyance by minor Creek Indian freedman—Return of consideration—Evidence of minority.

HUGHES LAND CO. VS. BAILEY, 30 OKLA. 194—Allotment right of Creek citizen—Rights of heirs.

ROBINSON VS. OWEN, 30 OKLA. 484—Equity jurisdiction of courts of Oklahoma to grant relief where patent issued to wrong person.

GROOM VS. WRIGHT, 30 OKLA. 652—Right to rent Creek allotment.

CHAPMAN VS. SILER, 30 OKLA. 714—Effect of statehood on alienation of restricted lands.

DIVINE VS. HARMON, 30 OKLA. 820—Descent of Creek allotment.

SCOTT VS. JACOBS, 31 OKLA. 109—Judicial notice of laws and customs of Indian nations—Estates of decedents.

MITCHELL VS. BELL, 31 OKLA. 117—Equity jurisdiction to determine validity of patent from Cherokee nation.

CORNELIUS VS. MURRAY, 31 OKLA. 174—Contract to sell rights in Indian land.

ALLEN VS. OLIVER, 31 OKLA. 356—Alienation of Cherokee allotment in five years, except homesteads, after issuance of patent.

YARBROUGH VS. SPAULDING, 31 OKLA. 806—Enrollment records conclusive as to age of allottee—Restrictions.

IN RE DAVIS ESTATE, 32 OKLA. 209—Effect of Act of April 28, 1904, on restricted lands—Exemptions from debt.

WILLIAMS VS. JOHNSON, 32 OKLA. 247—Repeal of statutes by implication.

REDWINE VS. ANSLEY, 32 OKLA. 317—Liability of restricted allotment for debts of deceased allottee.

GILL VS. HAGGERTY, 32 OKLA. 407—Marriage of minor Creek freedman—Sale of allotment.

MORLEY VS. FEWELL, 32 OKLA. 452—Inheritance—Rights of white husband.

HOTEYABI VS. VAUGHIN, 32 OKLA. 807—Conveyances by heirs of Choctaw Indians after lawful selection.

ALLUWEE OIL CO. VS. SHUFFLIN, 32 OKLA. 808—Validity of oil lease from a Cherokee allottee approved by the Secretary of the Interior, as against one by same allottee not approved.

MULLEN VS. SIMMONS, 33 OKLA. 184—234 U. S. 192—Allotment—Exemptions.

AUSTIN VS. CHAMBERS, 33 OKLA. 40—Jurisdiction title to realty sought to be devised by restricted allottee.

BRADY VS. SIZEMORE, 33 OKLA. 169, 235 U. S. 441—Inheritance—Death before allotment.

TAYLOR VS. PARKER, 33 OKLA. 199—Restriction of alienation—Wills.

HELIKER-JARVIS SEMINOLE CO. VS. LINCOLN, 33 OKLA. 425—Law of descent in Seminole nation.

GROUND VS. DINGMAN, 33 OKLA. 760—Descent and distribution in Creek nation.

PARKINSON VS. SKELTON, 33 OKLA. 813—Meaning of "Allottee"—Homestead.

SHELLENBERGER VS. FEWELL, 34 OKLA. 79, 236 U. S. 68—Creek lands—Inheritance.

REYNOLDS VS. FEWEL, 34 OKLA. 112—Rights of non-citizen husband to inherit under the Creek tribal law.

STOUT VS. SIMPSON, 34 OKLA. 129—Conveyances and leasing of Seminole lands.

ROGERS VS. NOEL, 34 OKLA. 238—Conveyances of Choctaw land.

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TEXAS CO. VS. HENRY, 34 OKLA. 342—Alienation of Creek lands—Easements—Grant by Secretary of the Interior.

CAMPBELL VS. McSPADDEN, 34 OKLA. 377—Conclusiveness of enrollment records as to age—Validity of conveyance.

OKLAHOMA LAND CO. VS. THOMAS, 34 OKLA. 681—Descent and distribution—Illegitimate child—Creek laws.

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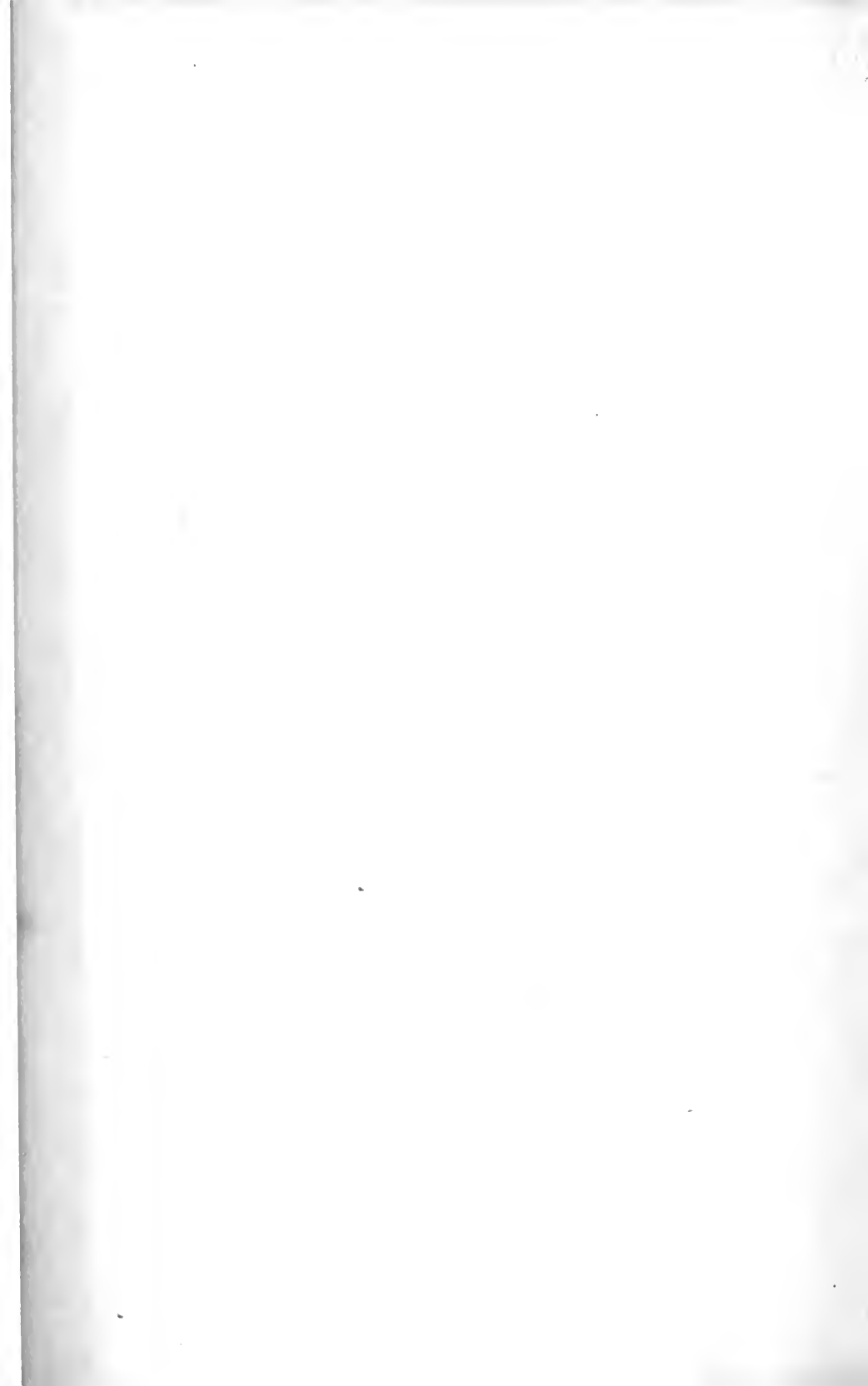
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